

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF TEXAS
3 HOUSTON DIVISION

4 RULFORD G. ALDRIDGE, . Civil Action
5 . No. H-05-608
6 Petitioner, .
7 .
8 VS. .
9 .
10 NATHANIEL QUARTERMAN, .
11 . February 27, 2009
12 Respondent. . 9:16 A.M.
13 . HOUSTON, TEXAS

14 TRANSCRIPT of PROCEEDINGS
15 BEFORE THE HONORABLE GRAY H. MILLER
16 UNITED STATES DISTRICT JUDGE

17 APPEARANCES:

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26 ALSO PRESENT: Mr. Rulford G. Aldridge

27 Proceedings recorded by mechanical stenography, transcript
28 produced by computer-aided transcription.

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WITNESSES:

DR. DIANE MOSNIK

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P R O C E E D I N G S

(February 27, 2009)

THE COURT: All right. Are you are ready to proceed?

09:16:14AM MR. RYTTING: Yes, Your Honor.

THE COURT: Who is your next witness?

MR. RYTTING: Diane Mosnik will be our next witness.

Before we proceed with that, we had several exhibits -- several exhibits, three of which were brought to the Court's attention yesterday. They are the -- and I will show them to opposing counsel -- the trial testimony of Virginia Lee Aldridge, Cheryl Aldridge, and Brenda Garrett.

THE COURT: All right. And have you marked those as --

09:16:57AM MR. RYTTING: We have marked them as Exhibit -- Brenda Garrett's as Exhibit 38, Virginia Lee Aldridge's testimony as Exhibit 39, and Cheryl Aldridge's is Petitioner's Exhibit 40.

THE COURT: All right.

09:17:20AM MS. ODEN: Can we have a copy?

THE COURT: Do the Respondents have any objection to those exhibits?

MS. ODEN: No, Your Honor.

THE COURT: All right. They'll be admitted. And if you can provide a copy to the other side, that would be

1 useful.

2 (Exhibits admitted.)

3 MR. RYTTING: Finally, Exhibit 41, which is
4 Dr. Mosnik's updated curriculum vitae.

09:17:56AM 5 THE COURT: All right. Any objection?

6 MS. ODEN: No.

7 THE COURT: All right. It's admitted.

8 (Exhibit admitted.)

9 THE COURT: All right. Are you ready for the
09:18:05AM 10 witness?

11 Doctor, raise your right hand and be sworn in.

12 (**DIANE MOSNIK, M.D.**, Petitioner's witness, Sworn.)

13 THE COURT: All right. If you'll have a seat in the
14 witness chair, please.

15 **DIRECT EXAMINATION**

16 **BY MR. RYTTING:**

17 Q. Dr. Mosnik, can you identify yourself for the Court and
18 the record?

19 A. Yes. My name is Diane, D-I-A-N-E; middle initial M; last
09:18:41AM 20 name Mosnik, M-O-S-N-I-K.

21 Q. And can you briefly state what you were retained to do in
22 this case?

23 A. Yes. I was asked to do a diagnostic evaluation and
24 competency evaluation on Mr. Aldridge.

09:19:01AM 25 Q. Could you describe your qualifications?

1 A. Certainly. I completed my Ph.D. at the Finch University
2 of Health Sciences/The Chicago Medical School in north
3 Chicago, Illinois, with a Master's and dissertation topic in
4 the area of schizophrenia.

09:19:21AM 5 I completed an internship and fellowship with a
6 special focus in the area of clinical neuropsychology and
7 schizophrenia. And I have been practicing in the field as a
8 clinical neuropsychologist licensed in the states of Texas and
9 Wisconsin since 2001.

09:19:37AM 10 Q. Do you have any grants or publications?

11 A. I do.

12 Q. Could you briefly describe what those are?

13 A. Since I have been practicing and while in graduate
14 school, I obtained three independent -- independently funded
09:19:52AM 15 grants to study in the areas of schizophrenia and
16 neuroimaging, and I have a number of presentations and
17 publications at national conferences in the area of
18 schizophrenia and neuropsychology.

19 Q. And do you have any training or education in forensic
09:20:11AM 20 psychology?

21 A. I do. Yes. I participated in forensic psychology
22 classes as part of my graduate training program as well as
23 undergraduate. And since obtaining my license, I have
24 participated in conferences specifically designated for the
09:20:28AM 25 training of forensic psychologists. So, several of the

1 conferences where you're trained in understanding the legal
2 aspect and clinical assessment in forensic competency
3 evaluations. I also complete continuing education credits in
4 the area of forensic psychology.

09:20:49AM 5 Q. Have you had any experience in other cases as a --

6 A. I have.

7 Q. -- doing a forensic diagnosis?

8 A. Yes, I have.

9 Q. And what in particular?

09:21:00AM 10 A. I have a handful of cases in the area of criminal
11 competency evaluations; but I do, on a regular basis in my
12 clinical practice, several cases a month in determining the
13 competency of individuals in a variety of contexts. So, the
14 ability to make medical decisions, financial decisions, care
09:21:24AM 15 for themselves, engage in legal contracts, that sort of thing.

16 Q. And do you have to make a judgment about when their --
17 let's call it their level of mentation started to deteriorate
18 in the past?

19 A. I do. That is a regular part of my practice.

09:21:40AM 20 Q. And, Dr. Mosnik, what were you asked to do in this case?

21 A. Well, I believe I was called in specifically given my
22 expertise in the area of schizophrenia, that this was a
23 question in this case; and as you're aware, it is a little bit
24 atypical to do a retrospective evaluation. But the reason
09:22:06AM 25 that I was asked to do this is because, given the diagnosis of

1 schizophrenia, there's evidence in the literature that
2 suggests that the disease, that the type and severity of the
3 symptoms in terms of the delusions, hallucinations, as well as
4 the cognitive dysfunction associated with schizophrenia is
09:22:25AM 5 present during the prodromal and initially acute phase of the
6 disorder. So, it would be reasonable that an evaluation that
7 I conducted in 2006 would be very similar to the patient's
8 presentation at the time of the trial.

9 Q. Okay. We'll get into that a little bit later in more
09:22:45AM 10 detail, I believe.

11 In preparing for this -- in preparing to form
12 an opinion about Mr. Aldridge's competency, what type of
13 investigation did you do?

14 A. I did a clinical diagnostic and neuropsychological
09:23:05AM 15 evaluation to determine whether or not he met the criteria for
16 diagnosis of schizophrenia, determine the nature and severity
17 of his symptoms, the level of cognitive dysfunction associated
18 with that to determine if that pattern met the criteria for
19 the diagnosis of schizophrenia, how long he has been diagnosed
09:23:23AM 20 or had symptoms that would meet criteria for a diagnosis of
21 schizophrenia, and then the forensic aspect, whether or not he
22 understood the proceedings and of course the case against him,
23 his understanding of -- the factual understanding of the legal
24 proceedings and issues related to competency in that arena.

09:23:45AM 25 Q. And did it you produce a report based on this -- well,

1 let me strike that.

2 Did you -- what did you review in terms of
3 records?

4 A. I reviewed extensive records, including the T.D.C.J., the
09:24:04AM 5 juvenile records. I reviewed all the records from around the
6 time of the trial, including the testimony during the
7 punishment phase by Mr. Bates, the statements and affidavits
8 of Mr. Aldridge's sisters, letters and things that were
9 available in the records, T.D.C. records, all of those.

09:24:28AM 10 Q. Did you review any other reports by other psychologists
11 in this case?

12 A. I did. I reviewed the initial competency evaluation
13 conducted by Dr. Quijano in March of 1990. I reviewed the two
14 competency evaluations completed by Dr. Brown in 1995 as well
09:24:50AM 15 as the evaluation completed by Dr. Silverman in 1995, and I
16 also reviewed and incorporated a number of the writings and
17 summations that Mr. Aldridge completed.

18 Q. Okay. And just for the record, those psychological
19 evaluations would be Petitioner's No. 1, which is the March
09:25:18AM 20 27th, 1995, psychological evaluation by Dr. Jerome Brown; is
21 that correct?

22 A. That is correct.

23 Q. As well as Petitioner's No. 8, which is the forensic
24 psychological evaluation by Walter Quijano; is that correct?

09:25:35AM 25 A. That's correct.

1 Q. And the two others are respectively Petitioner's No. 5,
2 which is the January 27, 1995, competency evaluation by Edward
3 G. Silverman and the January 31, 1995, psychological
4 evaluation by Dr. Jerome Brown.

09:25:56AM 5 A. That's correct.

6 Q. And in preparation did you also review the depositions of
7 Dr. Thomas Allen and Dr. Walter Quijano?

8 A. Subsequent to the submission of my report, yes, more
9 recently.

09:26:28AM 10 Q. Did you attempt to interview anybody in this case?

11 A. I did. I had a meeting scheduled with Mr. Douglas Davis
12 and went to his office downtown here in Houston. I waited for
13 an hour and a half, and he didn't present for that meeting. I
14 attempted to contact him by phone and was eventually able to
09:26:45AM 15 do that, and he had said that he wasn't able to make that
16 meeting nor to reschedule with me.

17 Q. Did you review any scientific literature in preparation
18 for your testimony today or -- first in preparation for -- in
19 preparing for the report?

09:27:12AM 20 A. I did, extensively. In reading the literature on
21 schizophrenia and related fields to my practice on a monthly
22 basis, schizophrenia specifically every other month. But I
23 have in particular when I was working on the case and more
24 recently.

09:27:30AM 25 Q. Were you able to make a diagnosis in 2006?

1 A. I was.

2 Q. And what was that diagnosis?

3 A. Schizophrenia, paranoid type with features of
4 disorganized type.

09:27:50AM 5 Q. Would you describe for the Court a little bit about -- or
6 explain the nature of the illness, the nature of
7 schizophrenia, for the Court?

8 A. Well, schizophrenia is a brain disorder. It is a
9 disorder of thinking, as Dr. Quijano mentioned; but it is also
09:28:10AM 10 a disorder of impaired perception. So, an individual who has
11 schizophrenia misperceives or has an inability for their brain
12 function, their sensory function, to perceive incoming sensory
13 information from the environment. So, they perceive thoughts
14 and things that are occurring in their brain as actual sensory
09:28:32AM 15 phenomena. They have difficulty ascribing agency and action
16 to their own actions and owning their own actions, and these
17 are tied to neurobiological subtraits to the structural and
18 functional working of the brain.

19 Q. What are some of the symptoms that are typical or
09:28:52AM 20 characteristic of schizophrenia?

21 A. There's a couple of categorizations. So, typically they
22 are referred to as the positive and negative symptoms of
23 schizophrenia. But positive symptoms are those that are seen
24 greater than, if you will, in the normal population. So,
09:29:08AM 25 things that are above and beyond normal perception. So,

1 delusions, auditory hallucination, visual hallucinations,
2 formal thought disorder.

3 And then the negative symptoms are loss of
4 certain functions like apathy; loss of affective responsivity,
09:29:28AM 5 so loss of emotional processing; loss of social contacts,
6 friends, dating, romantic relationships, that sort of thing.

7 Q. Is there also a category generally described as
8 disordered thinking?

9 A. Yes. What we call formal thought disorder.

09:29:45AM 10 Q. And what does that include?

11 A. It's in the area of expressive language. So, it's a way
12 that we measure a person's thoughts. So, that can take the
13 form of thought blocking where an individual is speaking and
14 is experiencing thoughts and then they suddenly stop and they
09:30:04AM 15 lose their train of thought; but it is a rather abrupt and
16 complete loss of that train of thought.

17 Thought insertion where thoughts can be
18 inserted and they don't experience them as their own. Poverty
19 of content of speech and poverty of speech. So, a person
09:30:23AM 20 could maybe not speak very much or they may speak very
21 fluently and speak a great deal, but there's not a lot of
22 content or meaning included in what they're saying.

23 Illogicality of speech, so they can talk about a lot of
24 things; but the speech is illogical in sequence and in
09:30:43AM 25 meaning.

1 Q. And in this case was -- were these symptoms, positive and
2 negative symptoms, as well as the disordered thinking present
3 when you interviewed Mr. Aldridge?

4 A. Yes, they were. All of them were.

09:30:59AM 5 Q. And can you describe in a little bit more detail what
6 symptoms he was suffering from, in your opinion, during the
7 interview?

8 A. Of course. In regards to the positive symptoms,
9 Mr. Aldridge demonstrated a number of delusional material.
09:31:18AM 10 Specifically, he had delusions of control, delusions of
11 persecution, and semantic delusions as well as grandiose
12 delusions and significant religious delusions.

13 Q. What are semantic delusions?

14 A. They're the report of physical symptoms, such as an
09:31:47AM 15 illness or pain or a deformity in their body, that is not
16 associated with any medical entity or by observation with
17 patients reporting that is not physically there. So, they may
18 report, you know, a cut or something or a bump; and then when
19 examined by a physician, that doesn't exist.

09:32:07AM 20 Q. And when it comes to auditory hallucinations, are -- and
21 especially in Mr. Aldridge's case, are there several types
22 besides just hearing a voice? Do they sometimes hear
23 conversations?

24 A. Yes. Mr. Aldridge did experience auditory hallucinations
09:32:24AM 25 as well as visual hallucinations. His auditory hallucinations

1 were comprised of a couple of subtypes. Voices conversing,
2 where you hear a number of voices talking to each other and
3 speaking to you; as well as command hallucinations where there
4 is a single voice or multiple voices speaking directly to you
09:32:46AM 5 and commanding you to do something.

6 Q. And the visual hallucinations, were you able to identify
7 any or characterize their content?

8 A. Yes. They were visually perceiving spirits, sort of
9 vague, visual, human form what he described as spirits and
09:33:13AM 10 individuals that were coming after him, watching him.

11 Q. Were these symptoms, these hallucinatory symptoms,
12 present throughout the interview, in your opinion?

13 A. Yes.

14 Q. And what is a delusional system?

09:33:39AM 15 A. Well, a delusional system is an incorporation of sort of
16 an overriding theme to the delusional content. It can be an
17 incorporation of several types of delusions, as in this case.
18 So, there's some grandiose, some religious, and some
19 persecutory delusions; and they're interwoven into the
09:33:59AM 20 person's perception of their world. That's how they view
21 their world. So, we describe them that way.

22 Q. And in your opinion, did he have a delusional system?

23 A. He did, yes.

24 Q. And would you describe it as fixed?

09:34:17AM 25 A. I would, yes.

1 Q. And what does that mean?

2 A. Fixed means that it is relatively permanent. It is
3 firmly held and firmly believed, regardless of any data that
4 you can present that might disconfirm that belief system or
09:34:34AM 5 theory that they have.

6 Q. And what were some of the techniques or methods that you
7 used to determine -- or make your diagnosis, first of all, of
8 Mr. Aldridge's mental illness?

9 A. I used a number of symptom rating scales that have been
09:34:55AM 10 in the field of schizophrenia for a number of years; the scale
11 for the assessment of positive symptoms, scale for the
12 assessment of negative symptoms, the brief psychiatric rating
13 scale. So, during the course of the clinical interview, I
14 interviewed the patient to see if those symptoms present
09:35:11AM 15 themselves during the clinical interview, then with direct
16 query of the patient regarding those symptoms, and then a
17 neuropsychological evaluation where I administered a number of
18 cognitive measures, looking for a specific pattern of deficits
19 that we see in cognitive testing in patients with
09:35:32AM 20 schizophrenia.

21 Q. And are you familiar -- what do you think is the
22 relationship of Mr. Aldridge's mental illness to the issue of
23 competency?

24 A. I think his disorder specifically is related because of
09:35:52AM 25 the severity and nature of his delusional network, his

1 delusional symptoms. So, the severity of them, the
2 pervasiveness of them, the degree to which he believes them,
3 and the pervasiveness by which they overtake his life and his
4 perception of the world around him.

09:36:13AM 5 Q. Are you familiar with the standards of competency to
6 stand trial?

7 A. I am.

8 Q. And what is your understanding of what those standards
9 are?

09:36:22AM 10 A. For the competency to stand trial, there are two prongs:
11 that an individual has to have sufficient present ability to
12 consult with their attorney with a reasonable degree of
13 rational understanding; and, two, they have to have a rational
14 as well as factual understanding of the proceedings against
09:36:39AM 15 them.

16 Q. And in your opinion was -- did Mr. Aldridge satisfy
17 either of those prongs?

18 A. No. I don't believe that he did.

19 Q. At the time of your interview?

09:36:51AM 20 A. Yes. That is correct.

21 Q. And what did you do to determine whether he satisfied
22 either of the standards for competency?

23 A. I asked questions relating to his understanding of the
24 proceedings against him. He was able to tell me that he was

09:37:21AM 25 on death row for capital murder. However, he was never able

1 to state that in the absence of his delusional explanation for
2 that. So, while he said: I'm on death row for capital
3 murder. I didn't commit any murders. They murdered me. They
4 are trying to murder me by setting me up for capital murder
09:37:43AM 5 and would go on and on in his delusional network. So, he was
6 never able to state or recognize that he was actually on death
7 row because he committed an act of -- you know, that he did
8 that act.

9 And I also asked additional questions about his
09:37:58AM 10 understanding of the court system, and we talked specifically
11 about: Within the domain of the adversarial nature, do you
12 understand that there's going to be a side that's against you
13 and there's a side that's for you? And he understood the
14 system -- that the entire system is against him. So, he was
09:38:17AM 15 not able to differentiate that there were people that were, in
16 fact, working for him. So, he was able to say that, you know:
17 I have an attorney appointed to me. I am supposed, I should
18 say, have an attorney appointed to me but I haven't had any
19 attorneys who have actually worked for me or who have been
09:38:35AM 20 helpful to me and they are all part of this conspiracy.

21 So, again, he was never able to see that he
22 actually has attorneys who have been, you know, working for
23 him or report any of that information separate from his
24 delusional explanation.

09:39:11AM 25 Q. Would it help if you had a copy of your report to

1 testify?

2 A. Sure.

3 MR. RYTTING: If I may approach?

4 THE COURT: You may.

09:39:37AM 5 A. Thank you.

6 BY MR. RYTTING:

7 Q. This is Petitioner's Exhibit No. 7, the report of
8 Dr. Mosnik. If you would turn to page 6, the second full
9 paragraph, you say that "The client was unable to discuss the
10 certain events that led to his arrest and conviction without
11 reference to delusional ideas and his persecutory explanation
12 for the situation." And then you give an explanation of why
13 this is so, I believe.

14 Could you please expound on how you came to
09:40:28AM 15 that conclusion?

16 A. Right. That was particularly related to both data that I
17 reviewed from Dr. Quijano's report, in terms of the patient's
18 ability to explain the sequence of events and the time frame
19 more contemporaneous with the actual crime, as well as
09:41:04AM 20 questions that I asked him during my clinical interview in
21 2006 and found, you know, the same -- essentially the same
22 presentation, that his delusional network was the explanation
23 for the events leading up to the crime and were actively
24 ongoing at the time of the crime.

09:41:25AM 25 Did I answer your question, or was there

1 another part?

2 Q. No. That answered the question.

3 You've read the reports of Dr. Brown, and you
4 heard his testimony yesterday?

09:41:38AM 5 A. Yes, I did.

6 Q. And in 1995 you came to the conclusion that -- if this is
7 correct -- Mr. Aldridge was suffering from schizophrenia,
8 correct?

9 A. Yes.

09:41:46AM 10 Q. And that his perception of his legal situation was
11 intertwined and completely colored by his mental illness, his
12 delusional system; is that correct?

13 A. Yes.

14 Q. And were your findings in 2006 similar to what Dr. Brown
09:42:07AM 15 found?

16 A. They were, yes.

17 Q. And in what ways? What were some of the most significant
18 ways?

19 A. Well, the same thing; just that the severity and the
09:42:17AM 20 extent of his delusional network, the content of his delusions
21 was very consistent over time and really just the fixed nature
22 of -- the degree in which he believed these and the
23 pervasiveness of those delusions.

24 Q. And you also heard Dr. Quijano testify and read his
09:42:36AM 25 report, correct?

1 A. I did, yes.

2 Q. And were your findings in 2006 similar to what
3 Dr. Quijano found in 1990 during his clinical interview?

4 A. In his clinical interview, yes, very much so.

09:42:50AM 5 Q. Could describe -- in what ways? What were the most
6 significant ways they were similar?

7 A. Well, in terms of making his clinical diagnosis,
8 Dr. Quijano describes elaborately -- it says delusional
9 network expressed by Mr. Aldridge at that time. So, you know,
09:43:08AM 10 the persecutory delusions are grandiose, the religious
11 delusions. They're intertwined in his experience of the
12 events leading up to the crime, during the actual time of the
13 crime. They are even included in his supposedly factual
14 rendering of his understanding of the court proceedings.

09:43:31AM 15 Q. And were you able to review any evidence -- Dr. Quijano
16 made these findings prior to the trial, of course; is that
17 correct?

18 A. Yes.

19 Q. A month beforehand.

09:43:43AM 20 A. Yes.

21 Q. Approximately.

22 A. It was back in March of 1990.

23 Q. Did you also review this -- some of the evidence -- or
24 all the evidence that Mr. -- that Dr. Quijano had at his
09:43:56AM 25 disposal when he made his -- when he published his report in

1 May 15th of 1990?

2 A. Yes, I did.

3 Q. And those would include writings of Mr. Aldridge that
4 were introduced at trial?

09:44:13AM 5 A. Yes, they do include those.

6 Q. And they included as well the -- pardon me.

7 Did you also review the evidence that
8 Dr. Quijano relied upon when he provided his statement in
9 2006?

09:44:57AM 10 A. You mean the data that came in after his evaluation, like
11 the court records, the testimony of Mr. Bates?

12 Q. Yes.

13 A. Yes, I have.

14 Q. And upon considering both the report of Dr. Quijano and
09:45:12AM 15 the testimony of Mr. Bates, would you agree with Dr. Quijano's
16 conclusion that Aldridge was incompetent to stand trial?

17 A. At the time of the trial? Yes, I absolutely agree with
18 that.

19 Q. If you would, please -- was there any other evidence that
09:45:46AM 20 you found in the record that indicated that Mr. Aldridge was
21 incompetent at the time of trial?

22 A. I'm not sure what you're asking.

23 Q. Well, upon review of some of the records in this case,
24 including -- well, strike that. I will turn to a different
09:46:15AM 25 line of questioning at the moment.

1 What is it about Mr. Aldridge's diagnosis, his
2 schizophrenia, that is relevant to the question of his
3 incompetency at the time of trial based on your 2006 report?

09:46:41AM 4 A. Right. If you can establish a patient meets all the
5 criteria for a diagnosis of schizophrenia, the definition of
6 the disorder -- and there's extensive information provided in
7 the scientific literature that document -- that these
8 symptoms, the delusions and the cognitive functions associated
9 with the disorder, are present at the initial onset of the
09:47:00AM 10 disease. So, the disease is not one of neurodegeneration as
11 in, say, something like dementia where it starts out with mild
12 and gets progressively worse. The brain dysfunction and the
13 symptoms that are present in the disease are present at the
14 beginning of the disease.

09:47:16AM 15 So, they are present from day one and can be as
16 severe at that time as later. So, the fact that he has
17 schizophrenia at that time and at the time that I saw him and
18 the deficits that I saw in 2006, I can, you know, make the
19 assertion that those were present at the time of the trial.

09:47:38AM 20 Q. So, when you reviewed Dr. Quijano's report, was it clear
21 to you that he had a full-blown -- what -- what you might call
22 full-blown schizophrenia?

23 A. Absolutely. He was psychotic.

24 Q. So, he was in what you might call an acute phase?

09:47:57AM 25 A. Well, I have to say I don't know that Mr. Aldridge has

1 been in acute phase. His symptoms have appeared to be fairly
2 severe and significant, pervasive, since the beginning. So, I
3 don't know if it was an acute phase; but it was certainly an
4 active pervasive phase with active positive and negative
09:48:18AM 5 symptoms at that time.

6 Q. Were you able to make a determination of when this
7 disease first broke or the onset of it, or did you come to an
8 approximate time?

9 A. I did, yes.

09:48:32AM 10 Q. And what was that?

11 A. The best I could put together with the information from
12 the sister's report, the writings of Mr. Aldridge himself, and
13 other records, I believe it was around 1980 or around that
14 time.

09:48:46AM 15 Q. And this is consistent with some of the estimations of
16 the onset of this disease that you've seen in other records
17 and reports by other psychologists?

18 A. It is, yes.

19 Q. In Dr. Quijano's 1990 report he described a -- a defense
09:49:30AM 20 that Mr. Aldridge was going to put on, a defense that involved
21 sexual assault by the victim and by his spirits.

22 A. Yes.

23 Q. Do you recall that?

24 A. I do.

09:49:45AM 25 Q. What type of defense, in your view, is this?

1 A. I would say that's an irrational defense.

2 Q. And is there any evidence that he persisted in this
3 defense throughout trial?

09:50:01AM

4 A. Yes. I believe there is evidence that supports that
5 conclusion.

6 Q. What was that?

09:50:16AM

7 A. The testimony of Mr. Bates during the punishment phase of
8 the trial, so their reports of difficulty communicating with
9 the patient and presenting alternate defense strategies; that
10 the one thing that Mr. Davis remembers, despite full
11 recollection of the trial, is that the client, Mr. Aldridge,
12 repeatedly spoke about being sexually molested by the client
13 [sic]. That's one thing that stood out in his head and from
14 what he recalled from his time at the trial working with
15 Mr. Aldridge.

09:50:39AM

16 Q. Is it fair to say that he persisted in a delusional
17 defense throughout trial?

18 A. Yes. That is my perception.

09:50:51AM

19 Q. And Mr. Aldridge also has a diagnosis of paranoid
20 schizophrenia, does he not?

21 A. That's correct.

22 Q. What does that mean? Paranoid part?

09:51:07AM

23 A. Well, it really refers to the nature of the content of
24 his delusions. So, a significant portion of his delusions
25 revolve around persecutory delusions. They're individual

1 spirits, groups, organizations that are out to get him, that
2 are out to murder him, harm him, that are torturing him,
3 physically abusing him, molesting him. So, they are against
4 him. They are not there to help him, including the judicial
09:51:26AM 5 system, whereas, judges, everybody that's been involved in
6 this case is part of that persecutory delusion that they are
7 out to get him.

8 Q. And have you seen any evidence in the record of
9 Mr. Aldridge's incorporating people in the legal system --
09:51:43AM 10 lawyers, judges -- into his paranoia delusional system?

11 A. Yes. That was pervasive during my interview with him.
12 In fact, you were frequently spoken about, Mr. Rytting.

13 Q. In what sense?

14 A. In the sense that he recognized you were appointed as his
09:52:02AM 15 attorney, but he stated specifically that he had recused you;
16 that you were not, in fact, his attorney and you were part of
17 this ploy in this government conspiracy; that you were, in
18 fact, not working to help him; that you were against him.

19 Q. And has he come to the same conclusions about other
09:52:20AM 20 attorneys in the past?

21 A. Yes. He was actually able to name almost all of his
22 attorneys and the judges involved in his cases, and all of
23 them are involved in this network of Nazis and Sufi mystics
24 that are out to murder him, release other prisoners from
09:52:39AM 25 prison to come after him and torture him and torturing him

1 with spirits. So, yes.

2 Q. And was this -- was there some evidence that he had
3 already -- that he was incorporating his attorneys, Doug Davis
4 and Randolph Bates, into his delusional network at the time of
09:52:57AM 5 trial?

6 A. Yes.

7 Q. What was that?

8 A. Well, I think in Mr. Bates' testimony he talks about that
9 and alludes to that. And in Dr. Quijano's report there's some
09:53:07AM 10 evidence of that, as well.

11 Q. And what about the statement of Brenda Garrett?

12 A. Yes. During her visits to the prison to see
13 Mr. Aldridge, yes, she also reported that.

14 Q. If you have a client who is suffering from this type of
09:53:27AM 15 schizophrenia, paranoid schizophrenia, is it possible for his
16 attorneys to convince him that they are not in a conspiracy
17 against him?

18 A. No.

19 Q. And they confront him with evidence to the contrary?

09:53:44AM 20 A. No, it is not.

21 Q. And why is that?

22 A. There is research, in fact, conducted that shows that
23 patients with schizophrenia, particularly those with delusions
24 and paranoid schizophrenia, have an inability, a brain
09:53:58AM 25 inability, to incorporate or what's known as a bias against

1 the incorporation of disconfirmatory evidence. So, they stick
2 in their -- again, the fixed nature of delusions, they stick
3 with their statement and belief, as illogical as it may seem,
4 even in the face of contradictory information.

09:54:17AM 5 Q. And this is different from simply being stubborn, isn't
6 it?

7 A. It is. Their brain is literally telling him that their
8 view is correct.

9 Q. And when you say "the brain is telling them," can you
09:54:28AM 10 explain a little bit about what's going on and why that is the
11 case?

12 A. Sure. The synapses are firing and giving them
13 information. The brain is not able to discriminate whether
14 that information is coming from an internal source versus an
09:54:44AM 15 actual tangible environmental source. So, it is interpreted
16 as real. So, when they hear a voice telling them something,
17 it literally reacts in the brain as if they are hearing --
18 like my voice right now is being transmitted to your ears, the
19 same sensory stimulation and brain interpretation that is
09:55:05AM 20 going on. They are not able to discriminate between the two.

21 Q. And is the same -- is it the same sort of biological
22 connection with the delusional system that they form, as well?

23 A. It is. That's more extensive. So, there is shown to be
24 involvement of the thalami, bilateral thalami, which is
09:55:23AM 25 considered the neuro relay center, if you will, in the brain.

1 The projections to the frontal lobes, the mesial and dorsal
2 prefrontal cortices are involved --

3 THE REPORTER: I'm sorry. Can you slow down?

4 THE COURT: You're going to have to slow down a
5 little bit. You may have to spell a couple of those.

6 THE REPORTER: Can you speak up a little bit louder?

7 THE WITNESS: Okay. Sure.

8 THE REPORTER: If you can start over. "That's more
9 extensive."

10 THE WITNESS: Could you read a little more of that,
11 please?

12 THE REPORTER: "There is shown bilateral" --

09:55:53AM

13 A. -- thalamic, T-H-A-L-A-M-I-C, nuclei involvement in the
14 brains of schizophrenias, as well as the projections from the
15 sensory regions of the brain to the frontal cortex. The
16 mesial and dorsal prefrontal cortices, C-O-R-T-I-C-E-S, are
17 shown to be dysfunctional both in terms of miroimaging studies
18 and structurally. In addition, there's been shown to be
19 hypometabolism by neuroimaging studies in the left temporal
20 and left occipital lobes with patients of schizophrenia,
21 particularly those with delusions of a religious nature and
22 paranoid nature.

09:56:18AM

23 Q. So, through an active will or through an active
24 concentration, can Mr. Aldridge disabuse himself of his
09:56:44AM 25 delusional system?

1 A. No. They can talk through it and talk about other
2 things, but they are always present. They cannot stop them on
3 their own freewill. They cannot stop them or make them go
4 away.

09:56:58AM 5 Q. So, they can no more do that than somebody can will their
6 diabetes to go away. Is that fair to say?

7 A. That's correct.

8 Q. It is an organic, physical -- physically-based,
9 biologically-based ailment. Is that fair to say?

09:57:14AM 10 A. That is correct.

11 Q. And earlier you talked about problems with agencies that
12 you noticed with Mr. Aldridge.

13 A. Uh-huh.

14 Q. What is an example that you saw when you interviewed him?

09:57:53AM 15 A. Well, when he is talking about the actual crime that
16 he -- he said to me during my interview, as well as during
17 Dr. Quijano's interview, that there was another presence that
18 was there that was making him blackout and that was telling
19 him, you know, to do this. In fact, it had been present for a
09:58:11AM 20 period of months prior to this. A command hallucination is
21 what we would term it clinically. But this voice was present
22 that was urging him to do this and he was blacking out and he
23 did not feel that he actually committed the act.

24 Q. And was there any indication, too, that he felt he could
09:58:35AM 25 commit acts using causal powers that we don't expect people to

1 exercise?

2 I mean, besides the -- let me put it this way:
3 Besides being forced to act in certain ways, did he think he
4 could act in ways that are out of the ordinary?

09:58:57AM 5 A. No. He actually didn't report having any special powers,
6 other than if you consider that a special power. Well, he, I
7 guess, in a sense, did consider that a special ability; but he
8 did not believe that he had like powers of God where he could
9 make natural disasters happen, which can sometimes be seen in

09:59:16AM 10 schizophrenia. But he did believe that he could communicate
11 with the television, that the television was sending him
12 messages as was the radio, and that was coming through the
13 prison walls; that a variety of celebrities, both local and
14 national, were communicating with him and were able to get

09:59:33AM 15 messages to him. But he believed that he was, I guess,
16 sensorally perceptive, if you will; that he could hear these
17 things and that these were actual -- these voices and these
18 messages were meant for him and that he was able to perceive
19 them and get them, receive them.

09:59:51AM 20 Q. Now, getting back to the earlier issue about spirits
21 causing him to do things and the issue of agency, is it your
22 opinion that he is absolutely confident and believed without
23 question that that is the case, that that is what is happening
24 to him?

10:00:12AM 25 A. Yes. I believe that he firmly believes that.

1 Q. And is there any evidence in the literature that people
2 who suffer from schizophrenia have problems with even
3 identifying themselves as the agents of the acts that they
4 commit or the actions that they engage in?

10:00:34AM 5 A. There is, in fact, literature that speaks specifically to
6 that. They have a significantly impaired ability to ascribe
7 themselves as the actor to their own actions and to recognize
8 actions as their own.

9 Q. Is it fair -- in your opinion, was this a problem or a
10:01:01AM 10 symptom that Mr. Aldridge exhibited?

11 A. Yes. I would say so.

12 Q. Is that proof both in your 2006 interview and in the
13 record?

14 A. Yes.

10:01:13AM 15 Q. And by "the record," I mean --

16 A. Dr. Quijano --

17 Q. -- the 1990 report of Dr. Quijano.

18 A. Yes.

19 Q. Would you say that Mr. Aldridge also has a history of
10:01:38AM 20 pronounced irrational behavior?

21 A. Yes. I mean, the presence of delusions and
22 hallucinations are considered irrational and unusual behavior,
23 yes.

24 Q. And so, referring specifically to the testimony of Gladys
10:01:55AM 25 Aldridge and to the statement of her sisters which are in the

1 record as -- at Petitioner's Exhibits 24, 25, and 26, do they
2 describe what you would call a history of odd conduct?

3 A. Oh, absolutely. Certainly from the time that he was
4 released -- well, actually in the time that he was in prison,
10:02:30AM 5 they describe an increasingly bizarre content and change in
6 his writings, in the letters that he wrote to them. And then
7 after -- following his release from prison in 1986, when he
8 showed up at Gladys' home, he had significantly odd and
9 atypical behavior, you know, wearing turbans and white gowns

10:02:51AM 10 and walking around at night, not talking to them, not
11 communicating with them and talking to himself, reporting the
12 presence of spirits, believing that his sisters and her
13 children -- Gladys and her children were letting Nazis and
14 other spirits into his room. He knew they were there despite
10:03:10AM 15 all evidence to the contrary.

16 So, yes, significantly to the point that she
17 actually asked him to leave; and then that actually continued
18 at his father's house, in fact, it worsened because -- my
19 recollection is his father's home at that time was up on
10:03:24AM 20 bricks. So, it didn't have a foundation. And Mr. Aldridge
21 was very distraught about that and really believed that the
22 Nazis and spirits were living underneath the home and were
23 able to get directly into the home. So, they weren't able to
24 keep him there either.

10:03:41AM 25 Q. And you reviewed, too, the testimony of Virginia Aldridge

1 and Cheryl Aldridge?

2 A. I did, yes.

3 Q. And I'm talking about the testimony of the 1990 trial and
4 the testimony of Brenda Garrett; is that right?

10:03:57AM 5 A. Yes, I have.

6 Q. And do they, too, describe a history of bizarre behavior
7 and conduct?

8 A. Yes, they do.

9 Q. And in what ways -- in what ways, if you can recall their
10:04:12AM 10 testimony?

11 A. Well, when he says, you know, we are talking about being
12 frightened of him, that he was always talking about spirits,
13 and that people were out to get him, that people were hurting
14 him and trying to murder him, you know, where they couldn't
10:04:27AM 15 see any spirits, kind of walking around, sneaking around the
16 house quietly and that sort of thing.

17 Q. And I believe it was Gladys Aldridge who was asked if she
18 had sought psychological help or counseling for Mr. Aldridge.
19 Do you recall that?

10:04:52AM 20 A. During testimony yesterday, yes, she was asked that.

21 Q. And she said no. In your experience is that any
22 indication at all that Mr. Aldridge may not have had a
23 psychological problem?

24 A. Is it an indication that he didn't have --

25 Q. Yes.

1 A. No, it is not an indication that he didn't have a
2 psychiatric problem.

3 Q. And why not?

4 A. That is common practice. Often family members --
10:05:22AM 5 particularly, you know, over the years -- that have kept
6 family members who are odd or atypical and engaged in unusual
7 behavior, private. They have kept that within the home. Many
8 people have like a distrust of psychiatrists and the negative
9 connotations associated with going to a psychiatrist or a
10:05:44AM 10 therapist and don't. Also, the layperson is not able to make
11 a diagnosis of schizophrenia. So, you often just think their
12 family member -- oh, that's So-and-So. That brother is odd
13 and sort of accept that as who that person is.

14 Q. And have you seen this in your practice?

10:06:02AM 15 A. I have, extensively.

16 Q. We went over yesterday with some of the other witnesses
17 whether there was evidence at the time of trial -- substantial
18 evidence -- that Mr. Aldridge was incompetent to stand trial.
19 What is your opinion about whether there was evidence before
10:06:49AM 20 Doug Davis or before the trial court in this case about
21 whether there was a bona fide doubt about Mr. Aldridge's
22 competency?

23 A. Are you asking if it was present prior to --

24 Q. Yeah. I'm just talking about the evidence that you have
10:07:07AM 25 seen, the evidence that existed at the time of trial. Let's

1 just talk about Mr. Davis in particular. And that was
2 available to Mr. Davis.

3 Did this raise in your view a real question, a
4 substantial question, about whether Mr. Aldridge was
10:07:20AM 5 competent?

6 A. It did. I mean, certainly the relation of events as
7 presented in Dr. Quijano's report describes a severe
8 delusional network that was just fixed and pervasive. If you
9 follow the literature, there is information that talks about
10:07:40AM 10 increased environmental stress that is contributing to the
11 severity of delusional presentation. So, as a clinician, I
12 would inform the legal counsel of that and want to know his
13 status during the trial.

14 Q. So, you are aware of significant information, in your
10:08:11AM 15 opinion, that showed he was incompetent before trial?

16 A. Yes.

17 Q. And afterwards, if you read records from the Texas
18 Department of Criminal Justice that indicated that he was
19 persistent in his --

10:08:21AM 20 A. Yes, I did.

21 Q. What, in particular?

22 A. The testimony of the family members, the testimony of
23 Mr. Bates during the trial. I also reviewed T.D.C. records,
24 you know, from 1990 that indicate the ongoing presence of
10:08:48AM 25 delusional, in fact, to obviously the present day, the date

1 that I interviewed him.

2 Q. I would like to show you what's been admitted as
3 Petitioner's Exhibit No. 2. It's a clinical note from the
4 Texas Department of Criminal Justice.

10:09:29AM 5 MR. RYTTING: May I approach, Judge?

6 THE COURT: Yes, sir.

7 BY MR. RYTTING:

8 Q. And if we go down -- part way down the page, we see the
9 statement -- just start --

10:09:46AM 10 MS. ODEN: What page is that?

11 MR. RYTTING: The first page of that exhibit, the
12 clinical notes.

13 BY MR. RYTTING:

14 Q. And what is this exhibit?

10:09:58AM 15 A. I did review this. An L.P.C. within, I guess, T.D.C.,
16 the correctional facility, mental health provision, did an
17 interview and screening with Mr. Aldridge.

18 Q. And what did she find? What are the principal findings?

19 A. Do you want me to read the entire thing, or do you want
10:10:23AM 20 me to start at her discussion?

21 Q. I think for these purposes just start with the
22 discussion.

23 A. Okay. "Per the discussion, reviewed the following:

24 auditory and visual hallucinations day and night, command
10:10:34AM 25 hallucinations including commands to hurt both himself and

1 others, hallucinations interfering with his sleep, poor
2 concentration, variable appetite, in part possibly to instill
3 self discipline but also suggestion of control via
4 hallucinations, both persecutory and grandiose hallucinations,
10:11:01AM 5 the possibility he believes himself to possess special powers.
6 And these experiences started at least 10 years ago."

7 Q. Is this consistent with Dr. Quijano's findings -- or at
8 least his clinical interview?

9 A. Yes.

10:11:15AM 10 Q. And in your opinion what is the possibility that between
11 the time of Dr. Quijano's interview and Dr. -- and the
12 findings that the examiner at T.D.C. made in, I believe, June
13 of 1990, after trial, that there was an improvement in
14 Mr. Aldridge's cognitive abilities or condition?

10:11:44AM 15 A. I would say there is no possibility of that.

16 Q. Okay. Why?

17 A. Just in the nature of the disorder. When you are -- when
18 you have active symptoms to this severity, they do not go away
19 for minutes, hours, days. And the circumstances, including

10:12:01AM 20 the increased environmental stress at the time of the trial,
21 there's only reason to believe that the symptoms would
22 increase. There's no indication of anything that would cause
23 them -- there's no treatment, there's no social support, plus
24 there's increased environmental stress, there is nothing that
10:12:17AM 25 would support a decrease in the presence of his symptoms. In

1 fact, it would support an increase eventually.

2 Q. Has this been reported in the literature, the effect of
3 environmental stress on symptoms and cognitive deficits from
4 people who suffer from schizophrenia?

10:12:38AM 5 A. Yes, it has. In fact, it's been specifically
6 independently related to the severity of delusions.

7 Q. So, in other words, a capital trial is highly likely to
8 increase the severity of someone's delusional and
9 hallucinatory experience. Is that fair to say?

10:12:58AM 10 A. I would absolutely say that, and I would specifically say
11 that in Mr. Aldridge's case because his delusions incorporate
12 the court system and are very persecutory in nature.

13 Q. Okay. And does this confirm your conclusion that he was
14 not competent to stand trial?

10:13:17AM 15 A. It does, yes.

16 Q. And that he was not able to assist his attorneys with a
17 rational degree of understanding?

18 A. Yes, it does.

19 Q. And yesterday there was some discussion of testimony that
10:13:46AM 20 Dr. -- that Mr. Aldridge gave during the punishment phase of
21 the trial. Mr. Aldridge, that is.

22 A. Yes.

23 Q. And did you have an opportunity to review that testimony?

24 A. I did, yes.

10:13:57AM 25 Q. And what was your -- in your opinion what did his

1 testimony indicate?

2 A. I felt that it was consistent with delusional ideation.

3 Q. In what way?

4 A. If you look at the specific pattern of his statements,

10:14:22AM 5 what he is saying in response to direct questioning by

6 counsel, he is not able to maintain the thread of the

7 questions presented by the attorney and he insists -- he

8 sticks with this statement that he was physically abused and

9 beaten by these officers, in fact, confusing locations, city

10:14:46AM 10 versus county jail, despite, again, disconfirmatory evidence,

11 this factual evidence, to contradict his statements. So, he

12 never varies. He never, you know, lightens up on, if you

13 will, his statement. He presents it as strongly each time it

14 is asked, despite any of the questions that the attorneys come

10:15:09AM 15 up with it or evidence to contradict it. So, to me, that is

16 evidence of a fixed delusional belief; that he is not, you

17 know, tracking what they're saying and he holds this belief

18 despite that evidence.

19 Q. And are there indications that he had this -- that he had

10:15:24AM 20 formed at least this type of delusional belief about guards

21 and about other guards beating him, guards kicking him prior

22 to the trial?

23 A. Yes. Certainly from the statements of his family members

24 and in his own writings, there's a reference to, in addition

10:15:46AM 25 to the Nazis and other things beating him, guards frequently

1 physically abusing him, molesting him, prior to that, yes.

2 Q. Yesterday, when Dr. Quijano testified, he talked about
3 the remission -- remission in the context of schizophrenia,
4 even remission during his clinical interview of Mr. Aldridge.

10:16:53AM 5 Do you recall that --

6 A. Yes, I do.

7 Q. -- that discussion?

8 And what is -- in your opinion, is the validity
9 of Mr. -- Dr. Quijano's conclusion, if there was a remission
10 in this case?

11 A. I don't believe that his definition of the word
12 "remission" is valid. The word "remission," as it relates to
13 schizophrenia, is the same as it relates to a medical
14 diagnosis. So, the term "remission" refers to -- an absence
10:17:26AM 15 or, if you will, a return to a baseline state of functioning
16 with no active symptoms or a very low level of active symptoms
17 present if treated. So, there's no active signs of disease.

18 And the prevailing understanding in the literature is that
19 this must be for a continuous period of six months. It can be
10:17:48AM 20 sometimes for shorter periods of time on medication treatment;
21 but even on medicines, it is typically perceived to be about
22 six months. There is no evidence that there's any remission
23 that last minutes, hours, days.

24 Q. So, there's no evidence and there's no -- that you know
10:18:10AM 25 of -- there's no research that establishes that?

1 A. That is correct.

2 Q. There's also some talk about waxing and waning of
3 symptoms. What is your opinion about this and the relevance
4 in this case?

10:18:26AM 5 A. Well, I don't use the term "waxing and waning" to refer
6 to the process in schizophrenia. As mentioned by Dr. Brown
7 and Dr. Quijano, once a person is diagnosed with
8 schizophrenia, that is a lifelong disorder. An individual
9 typically goes into remission upon treatment, with a

10:18:48AM 10 pharmacological agent. When those medications are stopped,
11 the most prevalent is a return to psychotic symptoms.

12 There are periods of acute exacerbation of
13 symptoms where individuals can, you know, become -- have a
14 significant increase in the severity and pervasiveness of
10:19:09AM 15 their hallucinations or delusions and then periods of what is
16 referred to as stability of symptoms. So, during -- because
17 in between those acute episodes, there is a relative
18 stability; but the presence of those symptoms, hallucinations,
19 delusions, as well thought disorder and the negative symptoms
10:19:27AM 20 of schizophrenia are still present.

21 Q. And there was also some suggestion about the possibility
22 of exaggerating symptoms in this case, in particular
23 Mr. Aldridge could be exaggerating symptoms in some way or
24 form. What is your opinion about that, when it comes to
10:20:01AM 25 people that suffer from schizophrenia in general?

1 A. Well, the majority of patients with schizophrenia,
2 including Mr. Aldridge, have no insight into the presence of
3 their symptoms as symptoms. As I mentioned, their brain is
4 not able to discriminate between an actual sensory input that
10:20:21AM 5 comes from the environment versus one that's coming from
6 inside their brain. They do not have an awareness that some
7 of the things they are experiencing or thinking are not real
8 in terms of how we experience the world, you know, somebody
9 who doesn't have a disorder like schizophrenia. So, if they
10:20:39AM 10 don't have awareness of those symptoms and don't believe
11 they're having any abnormal symptoms that this, in fact, is
12 what they're experiencing, they are not able to generate those
13 symptoms or to make them up, if you will.

14 Q. Dr. Quijano also suggested that there was some
10:21:07AM 15 functionality -- I believe that was the term that he used --
16 that he observed during his psychological evaluation of
17 Mr. Quijano [sic]. Were you able to form an opinion about
18 this concept and the way he was using it?

19 A. Well, that is the term that he used. I'm not certain
10:21:34AM 20 what that term means; but, you know, following your line of
21 questioning at that time, he ended up saying it was related to
22 Mr. Aldridge's ability to report his factual understanding of
23 the legal -- the legal criteria, the legal -- the roles of the
24 people involved in the legal proceedings.

10:21:59AM 25 Q. What is your opinion of this abuse of function --

1 functioning or functionality in this sense?

2 A. I've never heard of it used in that context.

3 Q. You also talked about functionality, I guess, in what you
4 would consider his daily living; is that correct? Do you
10:22:17AM 5 recall that?

6 A. Right.

7 Q. Something like adaptive functioning, is that what you
8 took that to mean?

9 A. Right. That is one area that we assess. So, there are
10:22:27AM 10 different areas of functioning. One is social functioning.
11 One is adaptive functioning or, you know, activities of daily
12 living. Another is cognitive functioning. Another is
13 intellectual functioning.

14 Q. What he was talking about when he talked about
10:22:45AM 15 functionality or functioning in terms of the interview, could
16 that have been -- is that closely -- is that cognitive
17 functioning in your opinion? Do you think that is what he was
18 talking about?

19 A. He may have been referring to that or to the adaptive
10:23:02AM 20 functioning, I guess, yes.

21 Q. But do you recall him saying that the two were
22 correlated? Is that possible to correlate these two in a
23 meaningful way?

24 A. I don't recall him saying it was correlated to cognitive
10:23:17AM 25 functioning. I think he did try to say it was correlated with

1 his factual understanding and his functioning in the world,
2 like his adaptive functioning in the world. I think he was
3 saying that it was corroborated by that, is my recollection.

10:23:32AM

4 Q. And what, in your opinion, is the significance of this
5 for competency?

10:23:54AM

6 A. Well, when we do an evaluation, those are separate
7 domains. So, we assess, you know, social functioning,
8 adaptive function, cognitive function separately. So, one
9 doesn't corroborate the others. There is independent sources
10 of information. They are relevant to look at in terms of
11 competency. The most relevant are a person's level of
12 cognitive functioning.

10:24:18AM

13 Q. Turning to the adaptive -- the alleged adaptive
14 functioning of Mr. Aldridge, did you make a -- come to an
15 opinion about his adaptive functioning or his problems that he
16 may have had adapting before he went to prison?

17 A. I did, yes.

18 Q. And what were some of the indications to you that he was
19 not adapting?

10:24:34AM

20 A. I mean, we have a restricted period of time to assess
21 because, you know, he was in prison. But even in prison, he
22 didn't always maintain appropriate responsibility for work,
23 his duties, and showed apathy in terms of not showing up for
24 work. At a period of time from 1986 to 1990, when he was
10:24:55AM 25 working and living and functioning out in the free world, if

1 you will, he showed inconsistencies in his ability to maintain
2 things. So, maintain his activities of daily living.

3 He -- places that he resided, he went back and
4 forth between his various sisters' homes, his father's home,
10:25:20AM 5 living with a godmother and -- his stepmother -- I'm sorry,
6 not godmother, stepmother -- to living in apartments
7 independently but for brief periods of time. There's no
8 indication in the record that he was able to stay at any one
9 place for any longer than a few months. His workplace -- he
10:25:41AM 10 worked at McDonald's. He worked at a number of different
11 McDonald's. So, there's no evidence to indicate that he was
12 able to sustain consistent placement in either a living
13 situation or a work situation and to do that independently.
14 He was able to function in society with significant support
10:26:07AM 15 provided by his family members.

16 Q. Was there any indication in the record that he was -- for
17 example, that he wasn't properly grooming?

18 A. In the records from T.D.C. there were, yes.

19 Q. Okay. What was -- what is significant about that, if
10:26:30AM 20 anything?

21 A. Well, one of the features in schizophrenia patients who
22 suffer from schizophrenia is they have a deterioration in
23 personal hygiene. So, while they are typically neat in the
24 clothes that they wear, they typically don't like to shower,
10:26:47AM 25 shave, bathe, get their haircut, that sort of thing. They

1 don't like to maintain those features of personal hygiene.

2 Q. And was there evidence that he was refusing to shower?

3 A. There were, yes.

4 Q. Refusing to shave?

10:26:58AM 5 A. Yes.

6 Q. While he was -- and these are from his records of prior
7 incarceration --

8 A. Yes.

9 Q. -- from '72 to '86.

10:27:07AM 10 A. Yes. And in the '90s, as well.

11 Q. And, finally, Dr. Quijano talked about direct questioning
12 and breaking down the question.

13 A. Could I add something to the previous question?

14 Q. Sure.

10:27:28AM 15 A. There were also reports from Gladys that he wasn't
16 sleeping or eating regularly either.

17 Q. Okay. And, again, what is significant about that?

18 A. Well, maintaining consistency, you know, your ability to
19 feed yourself and sleep and take care of yourself, those are
10:27:43AM 20 activities of daily living.

21 Q. There was some testimony that he owned an automobile.

22 What was your findings on review of the records in this case?

23 A. Yes. I did see some references to that in the records.

24 He did apparently attempt to own a vehicle at two times but

10:28:09AM 25 was not able to do that. One of the vehicles was repossessed

1 after a short period of time, as he was not able to pay for
2 it. Another vehicle that he purchased apparently had some
3 engine troubles or -- from his report apparently he put
4 something into the engine or something, and then it wasn't
10:28:29AM 5 able to function. He wasn't able to pay for it. So, he
6 returned that vehicle.

7 Q. And it sounds like Mr. Aldridge rode a bike from the
8 statements of his sisters, from Cheryl at trial and Virginia
9 at trial; is that correct?

10:28:47AM 10 A. Yes.

11 Q. Was -- did he experience any problems with this mode of
12 transportation?

13 A. Yes. I have to say from his writings, his
14 descriptions -- and these were clearly incorporated into his
10:29:01AM 15 delusional beliefs. He believed, you know, people were trying
16 to hit him. There were numerous reports, particularly three
17 that he refers to, of attempts at hit and run and people -- in
18 his writings of people yelling at him while he is riding on
19 the side of the road. And I think it is very likely that he
10:29:21AM 20 was not abiding by the rules of riding his bicycle along
21 roadways that are occupied by vehicles.

22 Q. So, in other words, he couldn't even adapt to the rules
23 of the road that govern bicycle transportation?

24 A. That seems very likely, yes.

10:29:38AM 25 Q. And the reason for his inability is due to his mental

1 illness; is that correct?

2 A. Yes.

3 (Pause in the proceedings)

4 MR. RYTTING: Your Honor, I will pass the witness.

10:30:38AM 5 THE COURT: All right. Thank you.

6 My plan is to go for about another maybe
7 15 minutes or so and take a break -- about a 30-minute break
8 at 10:45.

9 Do you want to go ahead and begin your
10:30:48AM 10 cross-examination?

11 MS. ODEN: Yes, Your Honor.

12 **CROSS-EXAMINATION**

13 **BY MS. ODEN:**

14 Q. Good morning, Dr. Mosnik.

15 A. Good morning.

16 Q. Before we get started talking about all these issues, I
17 was wondering if you could tell us where these vehicle reports
18 are that you mentioned because we don't have these. The
19 vehicle reports about his car?

10:31:03AM 20 A. They're in -- I read about his having a vehicle in the
21 writings of Mr. Aldridge and some information on the papers
22 that we got from his sister Gladys.

23 Q. Okay.

24 MS. ODEN: Could we see these papers from his sister
10:31:20AM 25 Gladys? If you could find those and hand those to Kathy while

1 I'm crossing her, that would be great.

2 Or maybe y'all can find those during the break.

3 THE COURT: Yes. That would be fine. Why don't you
4 go ahead.

10:31:49AM 5 MS. ODEN: Okay.

6 BY MS. ODEN:

7 Q. Your Ph.D. thesis was on the effects of quitting smoking
8 on cognition in schizophrenia patients, correct?

9 A. Not on quitting smocking. It was on the effects of
10:32:01AM 10 smoking, the withdrawals from smoking.

11 Q. And withdrawal from smoking.

12 A. Right. I just kept the cigarettes from them. None of
13 them were quitting smoking.

14 Q. But it was something to do with smokers that were
10:32:10AM 15 schizophrenics and the effect of smoking on their cognition?

16 A. It was in patients with schizophrenia who smoked.

17 Q. Okay. And your Master's thesis was the effects of
18 phenylalanine loading on tardive dyskinesia in schizophrenia
19 patients.

10:32:27AM 20 A. That's correct.

21 Q. And your research grants dealt with medication for
22 amyotrophic lateral sclerosis and schizophrenia, right?

23 A. That is correct.

24 Q. And none of those were any kind of forensic or criminal
10:32:43AM 25 context; is that correct?

1 A. That is correct.

2 Q. Some of the papers that you've written deal with the
3 anatomy of odor sensation, M.R.I.s on brains of people with
4 fetal alcohol syndrome?

10:32:57AM 5 A. Uh-huh.

6 Q. People with Alzheimer's?

7 A. Uh-huh.

8 Q. People with, again, ALS, Lou Gehrig's disease. And your
9 teaching --

10:33:09AM 10 A. And the schizophrenia. I did dysfunctional neuroimaging
11 in schizophrenia.

12 Q. Functional neuroimaging --

13 A. Yes.

14 Q. -- in schizophrenia?

15 A. Yes.

16 Q. Okay. But none of those involved anything either
17 forensic or criminal in context?

18 A. That is correct.

19 Q. Your teaching experience, you've taught courses in
10:33:25AM 20 psychometric, you know, evaluations; is that right?

21 A. That's correct.

22 Q. Interpersonal therapy?

23 A. That's correct.

24 Q. Occupational therapy?

10:33:31AM 25 A. No. I'm not an occupational therapist. I'm a

1 neuropsychologist.

2 Q. Okay. Oh, I'm sorry. In 2002 and 2003, you were giving
3 a lecture series in a Master's program in occupational
4 therapy.

10:34:02AM 5 A. It was occupation medicine.

6 Q. Occupational medicine. Okay.

7 And you've also monitored or taught some
8 courses in resident training?

9 A. Yes.

10:34:13AM 10 Q. Okay. And none of those dealt with forensic or criminal
11 issues?

12 A. That was part of the subject material. I have had
13 interns and fellows, post-doctorate fellows, in
14 neuropsychology, clinical psychology, and residents -- medical
10:34:29AM 15 residents in psychiatry and neurology. So, yes, portions of
16 those included criminal cases, forensic evaluations, that type
17 of thing; but none of them were designed specifically to
18 address solely that topic.

19 Q. Okay. You mention that your forensic training, besides
10:34:47AM 20 maybe a course or two in undergraduate or graduate psychology,
21 mainly comes from conferences.

22 A. Training conferences.

23 Q. Right.

24 A. Presentations at conferences where you're being trained
10:34:59AM 25 in how to administer and interpret tests and evaluate

1 competency for the hearings. That's correct.

2 Q. What books or publications do you recognize as learned
3 treatises in the topic of forensic psychology?

4 A. Well, I mean, there are scales that I've used like in
10:35:18AM 5 MacArthur and ECST in terms of energies that are designed to
6 assist with competence --

7 Q. I mean more like books; books, learned treatises,
8 publications as opposed to tests. For example, detecting
9 malingering, do you believe that that's a learned treatise?

10:35:36AM 10 A. Yes, I do.

11 Q. How about forensic psychiatry?

12 A. Yes, I do.

13 Q. The handbook of psychology?

14 A. Yes.

10:35:42AM 15 Q. Okay. Could you tell us what hindsight bias is?

16 A. Sure. It's believing -- I guess when you have a current
17 understanding of something and then looking back at something
18 and that view being, I guess, influenced by what your
19 information now is.

10:36:06AM 20 Q. I'm sorry. Can you say that again? I guess I'm not
21 following you.

22 A. So, knowledge that you have now influences your view or
23 perception of something that happened previously.

24 Q. Okay. And how about confirmation bias? Are you familiar
10:36:23AM 25 with that term?

1 A. I am familiar, but I'm not sure that I could define that
2 for you.

3 Q. Okay. Could you tell us a little bit about the
4 difference between causation and correlation?

10:36:34AM 5 A. In what context?

6 Q. In the psychology context?

7 A. Can you repeat the question, please?

8 Q. Could you tell us a little bit about the difference
9 between causation and correlation?

10:36:45AM 10 A. Certainly. Causation to say that something caused
11 something else, that's implying that an action contributed to
12 the evolution or generation of something else happening. It
13 directly related to making something else occur. It caused it
14 to happen. Correlation, so like in basic science. So, you

10:37:08AM 15 may have two findings in psychology that seem to hang along
16 together, that seem to show up together in certain
17 populations. So, they seem to be correlated. But we don't
18 know whether one or not came first or second or whether
19 there's a causal relationship, but they do seem to be related.

10:37:28AM 20 Q. Would you agree that an example of a similar concept
21 would be the idea that all bachelors are men but not all men
22 are bachelors?

23 It's logical, right? You have to be male to be
24 a bachelor.

10:37:45AM 25 MR. RYTTING: I object to the relevance of this line

1 of questioning. I don't know if this is a 702 issue or if
2 it's -- but I can't see the connection to the case.

3 MS. ODEN: We'll tie it together.

4 THE COURT: I am going to give her a little
5 latitude.

10:37:55AM

6 BY MS. ODEN:

7 Q. I mean, you would agree that to be a bachelor, you have
8 to be male, correct?

9 A. Yes.

10:37:59AM

10 Q. But it is not necessarily the case that all males are
11 bachelors?

12 A. That is correct, that at any one point in time, yes.

13 Q. You have indicated that you have some limited forensic
14 experience; is that right?

10:38:14AM

15 A. Yes.

16 Q. You said you testified or you've been involved in a
17 handful of criminal cases?

18 A. Yes.

19 Q. Okay. Could you tell us what cases those are?

10:38:24AM

20 A. Yes. I was involved in the Andrea Yates case, on the
21 team, and assisted in evaluating her and helping them come to
22 an opinion on the case.

23 Q. Who did you assist?

24 A. Dr. George Ringholz.

10:38:38AM

25 Q. Were you working for the State or for the defense?

1 A. I was working for Baylor College of Medicine with
2 Dr. Ringholz.

3 Q. Okay. And which side of the litigation retained
4 Dr. Ringholz?

10:38:48AM 5 A. The defense.

6 Q. Who else?

7 A. I've had Mr. James Colburn, Marcus Green, some clinical
8 patients. I don't remember the name of my patient in
9 Wisconsin that we went to court on. Elsie Birdsell.

10:39:17AM 10 Q. How do you spell that last name?

11 A. B-I-R-D-S-E-L-L. First name Elsie, E-L-S-I-E.

12 Q. Uh-huh. Was that here in Texas?

13 A. No. That was in Wisconsin.

14 Q. Okay.

10:39:31AM 15 A. And Dr. Daniel Yeh.

16 Q. Uh-huh.

17 A. Y-E-H.

18 Q. Now, in Daniel Yeh's case for diminished competency back
19 in February of 2006; is that right?

10:39:46AM 20 A. I actually performed initially a clinical evaluation.

21 Q. Uh-huh. But when you testified in *United States versus*
22 *Yeh*, which was in September of 2008, you testified on the
23 issue of diminished capacity.

24 A. That is correct.

10:39:58AM 25 Q. It was actually here in Judge Melinda Harmon's court,

1 right?

2 A. It was.

3 Q. And you are aware that Judge Melinda Harmon found your
4 reasoning in that case to be Alice in Wonderland?

10:40:10AM 5 A. Yes, I am well aware of that.

6 Q. And you remember that she said it was too fanciful --

7 A. Uh-huh.

8 Q. -- didn't make sense, and wasn't good science?

9 A. Yes, I am aware of that.

10:40:22AM 10 Q. And in James Colburn, the case that you mentioned, you
11 were evaluating him for competency to be executed.

12 A. That is correct.

13 Q. You evaluated him in February, 2003?

14 A. I couldn't tell you the exact dates; but that sounds
10:40:33AM 15 about right, yes.

16 Q. Okay. You found him to be schizophrenic and, therefore,
17 not competent to be executed.

18 A. That's correct.

19 Q. But Dr. Conroy disagreed with you, correct?

10:40:43AM 20 A. Yes.

21 Q. Dr. Massey disagreed with you?

22 A. I don't have recollection of that evaluation.

23 Q. Dr. Petvold, P-E-T-V-O-L-D, disagreed with you?

24 A. I don't have a memory of all the names involved in that
10:40:59AM 25 case.

1 Q. Okay. Do you remember that Dr. Axelrad, A-X-E-L-R-A-D,
2 disagreed with you?

3 A. I mean, if you say that's in the record. Again, I don't
4 remember all the names involved in that.

10:41:06AM 5 Q. Do you remember Dr. Quijano being involved in that case?

6 A. I do not, no.

7 Q. So, you don't remember that he disagreed with you there
8 either?

9 A. I don't have recollection of that, no.

10:41:15AM 10 Q. Did you know that Mr. Colburn was actually executed in
11 March of that year?

12 A. Yes, I did know.

13 Q. So, the Court disagreed with you, as well.

14 A. Eventually, yes.

10:41:24AM 15 Q. You mentioned in the past, in Dr. Yeh's case, that you
16 examined a couple of people on death row. That would be
17 Marcus Green and James Colburn; is that right?

18 A. And Mr. Aldridge.

19 Q. And Mr. Aldridge. Anybody else?

10:41:41AM 20 A. No.

21 Q. When you formulated your opinion for this report, you had
22 not yet reviewed the records from Houston Police Department
23 surrounding the investigation of this crime or the arrest of
24 Mr. Aldridge; is that right?

10:41:59AM 25 A. I did review those records.

1 Q. Okay. You didn't list those in your report, and you
2 didn't mention them in your report. Did you find them to be
3 at all useful in forming your opinion?

4 A. What was your original question?

10:42:13AM 5 Q. When you formed your opinion and wrote your report, you
6 had not yet had the opportunity to review the Houston Police
7 Department records surrounding the investigation of this crime
8 and the arrest of Mr. Aldridge; is that correct?

9 A. I don't know. I have reviewed many, many records. So,
10:42:34AM 10 whether I reviewed them prior to my report --

11 Q. Okay.

12 A. -- or subsequent to them, I don't know.

13 Q. Okay. If you did not indicate having reviewed them when
14 you wrote your report, would you feel that your report was
10:42:45AM 15 accurate; or do you think you maybe reviewed things and just
16 didn't list them in your report?

17 A. It may be that I didn't list them, but I try to list
18 everything that I reviewed.

19 Q. Okay. So, at this point we don't know if you reviewed
10:42:59AM 20 them or not; but if you don't mention them in your report,
21 they must have not played a big role in your opinion. Is that
22 the case?

23 A. That can certainly be it.

24 Q. You did review his T.D.C.J. records --

25 A. Yes.

1 Q. -- and the 2006 statement of Judy Turner, his sister?

2 If you say you did in your report, you probably
3 did?

4 A. I'm sorry. I'm still thinking about the previous
10:43:25AM 5 question. So, could you repeat this question?

6 Q. Sure. Did you review the 2006 statement of Judy Turner,
7 his sister?

8 A. Yes, I did. The one that I didn't review prior to my
9 report was Gladys'. That took place after I left.

10:43:43AM 10 Q. Okay. And you reviewed the 1995 evaluations by
11 Drs. Brown and Silverman?

12 A. Yes, I did.

13 Q. Okay. You didn't mention anything in your report about
14 the questions that you asked Mr. Aldridge to determine whether
10:44:05AM 15 or not he was competent to stand trial.

16 A. Well, I didn't write the questions specifically, no; but
17 I alluded to them in --

18 Q. In your reply, right?

19 A. Within my report. No, no. Within my report on page --
10:44:22AM 20 I'm trying to find it -- under my current clinical and
21 behavioral observations.

22 Q. Which is page 4.

23 A. On page 6.

24 Q. Okay.

10:44:38AM 25 A. And I talk about particularly important -- that's where I

1 incorporated and I made a note in there that I did not talk
2 about all of the -- so, I didn't list my specific questions;
3 but Dr. Quijano didn't in his report, nor did Dr. Silverman or
4 Dr. Brown list their specific questions.

10:44:52AM 5 Q. Okay. So, the sentence in that paragraph that you are
6 referring to, which is the second paragraph on page 6, the
7 sentence that you are referring to is: "The client was unable
8 to discuss the circumstances that led to his arrest and
9 conviction without reference to delusional ideas and his
10:45:09AM 10 persecutory explanation for his situation. While he was able
11 at times to state that he was on death row for capital murder,
12 he did not comprehend and could not convey the understanding
13 that he was being punished for the crime he committed, as he
14 firmly believes he did not commit the offense as described."

10:45:27AM 15 Is that the illusion that you're referring to?
16 Right?

17 A. Those are in response to questions that I asked him.

18 Q. Okay.

19 A. In addition to the beginning of the report where I asked
10:45:38AM 20 him about his lawyer, his current lawyer.

21 Q. So, what questions did you ask him? Did you use some
22 kind of list to go through to structure that part of the
23 interview?

24 A. I do. I ask about what their understanding of the court
10:45:53AM 25 proceedings are. Do they understand the nature? And what I

1 asked Mr. Aldridge specifically: Does he understand the
2 nature of the proceedings? So, I'm trying to get at do they
3 understand that there's a side that's for and against, you
4 know, that there's a prosecution and a defense side, the
10:46:09AM 5 adversarial nature of that, who the major players are in the
6 course of that, the legal proceedings, what the charges are
7 against them, what the severity of those charges are, what the
8 consequences of those charges are, different reasonable
9 defenses that could be discussed with their attorneys, what
10:46:31AM 10 those options are, options for how they could plead, and how
11 they could cooperate with their attorney to review and come to
12 a decision about how they might plead guilty, not guilty, not
13 guilty by reason of insanity. So, those are the questions and
14 ideas that I try to cover.

10:46:51AM 15 Q. You were able to review Dr. Allen's report in which he
16 critiqued your evaluation after, of course, you had filled out
17 your report; is that right?

18 A. That is correct.

19 Q. And, in fact, you filed a reply -- or you wrote a reply
10:47:07AM 20 and gave it to Mr. Aldridge's attorneys to have filed in
21 court.

22 A. I did, yes.

23 Q. All right. And when you wrote that reply, you wanted to
24 more fully explain your position for the benefit of the Court;
10:47:19AM 25 is that right?

1 A. Certainly.

2 Q. You presumably wanted it to be complete and accurate?

3 A. Yes. I wouldn't disagree with that.

4 Q. Okay. And, yet, when you wrote that reply, your only
10:47:32AM 5 answer to Dr. Allen's critique that you did not perform a
6 competency evaluation was that you asked Mr. Aldridge
7 questions about the crime that he committed; was that right?

8 A. I would have to see the statement that I wrote.

9 Q. Okay. So, if that is what is in the statement that you
10:47:52AM 10 wrote, you would agree that is accurate?

11 A. That that's the only thing that I asked?

12 Q. That's what is in your statement.

13 A. Where I said the only thing that I asked Mr. Aldridge?
14 That is not accurate. That's not the only thing that I asked
10:48:03AM 15 Mr. Aldridge.

16 Q. Okay. In evaluating someone's mental capacity, it is
17 important not to just look at test results, but you have to
18 look at their day-to-day functioning; isn't that right?

19 A. Yes. That's one of the pieces of information.

10:48:18AM 20 Q. Okay. And one way to detect if a person is malingering
21 or exaggerating symptoms is to compare how they do when they
22 are being interviewed in a clinical setting or tested in a
23 clinical setting with how they do in day-to-day living.

24 A. Uh-huh.

10:48:37AM 25 THE COURT: All right. I think this would be a good

1 time to take our break. We are going to break for 30 minutes.
2 Come back at 11:15; and then I would plan to go all the way
3 through to 1:00 o'clock, if necessary, without a break. Okay.
4 Thank you.

10:48:48AM

5 (Break)

6 BY MS. ODEN:

7 Q. Doctor, thank you, during the break we were able to get
8 one of the documents that we had referred to as -- you had
9 referred to as a vehicle report, which is actually --

10 MS. ODEN: May I approach, Your Honor?

11 THE COURT: You may.

12 A. I didn't refer to it as a vehicle report. I said some
13 information about that he had a car.

14 BY MS. ODEN:

11:23:13AM

15 Q. Okay. So, what I'm showing you appears to be a letter
16 from the Texas Department of Health; and it is stapled to what
17 appears to be a letter from Mr. Aldridge. Is that what you
18 were referring to as having reviewed and determined that he
19 had had a car?

11:23:23AM

20 A. Yes. One of the indications that he had a car, yeah.

21 Q. Okay. All right. Were there any other documents that
22 you reviewed that you didn't list in your report that were not
23 turned over to the respondent, to us?

24 A. Not documents like that. They're writings of

11:23:38AM

25 Mr. Aldridge himself.

1 Q. Okay. So, I suppose you are probably not the correct
2 person to ask if everything that you've reviewed was turned
3 over to us. But there were other writings such as that that
4 you reviewed that may not have been listed in your report?

11:23:53AM 5 A. Those records I reviewed recently now.

6 Q. Okay. All right.

7 A. His writings have already been turned in. That's already
8 been part of the record.

9 Q. Okay. But, for example, that writing was not part of the
11:24:09AM 10 record.

11 A. Right. That's something that was just reviewed recently.

12 Q. Just reviewed recently.

13 A. Correct.

14 Q. So, perhaps when we are done talking, you can show me the
11:24:17AM 15 other writings that you reviewed recently that helped form
16 your opinion.

17 A. There were no other records that aren't in the record.

18 Q. Nothing else besides this one letter to the Department of
19 Motor Vehicles.

11:24:28AM 20 A. Right. The writings that I am referring to are in August
21 of 1990, writings by Mr. Aldridge that are already in the
22 record or evidence.

23 Q. Okay.

24 MR. RYTTING: We need to make a clarification. You
11:24:43AM 25 want records that she has reviewed since the report; is that

1 correct?

2 MS. ODEN: Yes. Anything that she reviewed that she
3 is relying on to testify about and help support her opinion is
4 something that we are entitled to receive.

11:24:57AM 5 MR. RYTTING: We will get you the copies of --

6 MS. ODEN: Great.

7 MR. RYTTING: -- of that information.

8 MS. ODEN: Great. Thank you.

9 MR. RYTTING: I'll try to do it -- I can't say we're
11:25:04AM 10 going to get it by the end of -- before this proceeding here
11 ends, but certainly by the end of -- by today you will have
12 what was reviewed.

13 MS. ODEN: Fantastic.

14 THE COURT: All right. Thank you.

11:25:16AM 15 BY MS. ODEN:

16 Q. Doctor, I did want to go back and talk for just a little
17 bit about what you wrote in your reply to Dr. Allen.

18 A. Okay.

19 Q. Because we had discussed it briefly. I'm specifically
11:25:29AM 20 referring to page 3, and I will bring you a copy of that.

21 MS. ODEN: Do you have -- you have her reply, right,
22 James?

23 MR. RYTTING: Yes, I do.

24 MS. ODEN: May I approach, Your Honor?

11:25:38AM 25 THE COURT: You may.

1 BY MS. ODEN:

2 Q. I'm showing you page 3 of your reply. That is your reply
3 document, isn't it?

4 A. It is.

11:25:46AM 5 Q. Okay. And I am referring to the second paragraph on the
6 page --

7 THE COURT: Is this an exhibit?

8 MS. ODEN: It was attached to the petitioner's reply
9 to the respondent's reply.

11:25:56AM 10 THE COURT: All right.

11 MS. ODEN: And I believe it was Exhibit A.

12 THE COURT: All right. It has not been marked as a
13 trial exhibit?

14 MS. ODEN: No, it has not. I believe it was just
11:26:05AM 15 filed as a pleading.

16 THE COURT: All right.

17 MS. ODEN: Am I correct, James?

18 MR. RYTTING: That is correct.

19 THE COURT: Okay.

11:26:09AM 20 MS. ODEN: Okay.

21 BY MS. ODEN:

22 Q. So, I'm referring to your second paragraph. Can you --
23 or any part of that document -- can you tell us where you
24 refer to the kinds of questions or interactions you had with
11:26:18AM 25 Mr. Aldridge regarding his competency to stand trial?

1 A. I put a general statement in here that I believe you are
2 mischaracterizing. I did not say that I only questioned him
3 about the crime.

4 Q. Okay. That's not my question. Hold on one second,
5 Doctor.

6 Tell us where in your reply -- read us the part
7 that talks about your interaction with Mr. Aldridge regarding
8 his competency to stand trial.

9 A. Okay.

10 Q. Take your time.

11 A. It's the one line. I did question Mr. Aldridge about the
12 crime when I interviewed and tested him.

13 Q. And you were writing that in response to the critique by
14 Dr. Allen that you did not conduct a competency evaluation,
11:26:59AM 15 that you had not asked Mr. Aldridge about the role of the
16 different players in the courtroom, et cetera.

17 A. That's correct.

18 Q. Okay. And when you wrote that reply, as you said before,
19 I think you said, you were doing it so you could help the
11:27:13AM 20 Court have a fuller understanding or a complete understanding
21 of your actions in the case and your opinion.

22 A. That is not an all-inclusive statement. I mean, this
23 report or this reply is not all inclusive for everything that
24 I asked and everything I said. This was a response in part to
11:27:31AM 25 what we felt were salient issues. So, no, I did not list all

1 the questions. But by that question, my intent was to say
2 that I asked questions about the crime, meaning the time of
3 the crime.

4 Q. The time of the crime.

11:27:43AM 5 A. Right.

6 Q. Okay.

7 A. And the issues relating to the proceedings relating to
8 that --

9 Q. Okay.

11:27:49AM 10 A. -- by not excluding them and not saying that I only asked
11 one question about the crime.

12 Q. Did you think one of the salient issues that you needed
13 to respond to from Dr. Allen was his argument that you did not
14 ask questions appropriate for a competency evaluation,

11:28:06AM 15 questions not related to the crime but questions related to
16 the proceedings and his understanding of the proceedings?

17 A. The one that I did that was alluded to in my report, as
18 we said, is on page 6 in the second paragraph when I asked him
19 about the attorney. That was included in the report.

11:28:22AM 20 Q. Okay. I'm sorry, Doctor. Maybe I'm not being clear.
21 That is not my question. I'm not asking you about your
22 report. I'm asking about your understanding of Dr. Allen's
23 critique.

24 Is it your understanding that what Dr. Allen
11:28:34AM 25 felt was missing in your competency questioning was

1 questioning about his understanding, Mr. Aldridge's
2 understanding, of the proceedings themselves?

3 A. Yes, that is what Dr. Allen felt was missing.

4 Q. Okay. And your choice of how to respond to his critique
11:28:51AM 5 was, again, to affirm that you had asked Mr. Aldridge
6 questions about the crime and the time of the crime; is that
7 right?

8 A. I'm asserting to him that I did ask relevant questions
9 relating to those issues.

11:29:07AM 10 Q. Okay. Okay. I think we are clear, then.

11 You mentioned during your direct examination
12 that Mr. Aldridge suffers from somatic delusions. What
13 specific somatic delusions did he report to you?

14 A. A feeling of pain in his ear from a noise coming in his
11:29:24AM 15 left ear, feeling of excruciating pain; and that he had
16 experienced some other wounds that he was trying to show me,
17 things on his skin and his face where he had wounds and scars
18 where there were none visibly evident to me.

19 Q. And did he experience those at the same time as auditory
11:29:44AM 20 or visual hallucinations?

21 A. The excruciating pain in the ear was associated with a
22 sound, a piercing excruciating sound and pain coming through
23 his left ear. But there was no indication that that was a --
24 a visual hallucination was going on or an auditory
11:30:03AM 25 hallucination was going on.

1 Q. So, it is possible, then -- if I understand you
2 correctly, there's no indication that he was experiencing an
3 auditory hallucination at the same time that he had the pain
4 in his ear?

11:30:15AM 5 A. Not at the same time. It was a separate symptom.

6 Q. Okay.

7 A. So, the somatic delusion is separate from an auditory
8 hallucination.

9 Q. Okay. So, he wasn't experiencing the pain as a result of
11:30:28AM 10 a sound?

11 A. He was experiencing not as -- the pain not as the result
12 of an auditory hallucination.

13 Q. Okay. All right. Were the voices that Mr. Aldridge
14 heard -- did he report them as hearing them inside his head or
11:30:47AM 15 outside his head?

16 A. It's coming from outside his head.

17 Q. Okay. You mentioned that he had a schizoid pattern of
18 deficit in his cognitive abilities, that he had a pattern
19 typical of schizophrenia. What is that pattern of cognitive
11:31:03AM 20 deficit that's typical of schizophrenia?

21 A. Can you show me where you are referring?

22 Q. Can I show you? I didn't take a transcript. I'm talking
23 about your testimony during your direct examination.

24 A. Oh, I thought you were talking about something in my
11:31:14AM 25 report.

1 Q. No. I'm sorry. You were describing that you had done
2 neuropsychological testing.

3 A. I did not use the word "schizoid."

4 Q. That would be my mistake. I apologize.

11:31:25AM 5 A. That is a different clinical term completely.

6 Q. Okay. Can you tell us what is the pattern of cognitive
7 deficits that is typical of schizophrenia?

8 A. Yes, I can. In patients with schizophrenia, there
9 typically is a general overall lowering of cognitive
10 functioning in the areas of verbal memory, executive
11 functioning, visual construction can be impaired more relative
12 to a greater degree than other areas of cognitive functioning.

13 Q. And so, were the tests that you administered to
14 Mr. Aldridge during your evaluation, were they designed to
11:32:00AM 15 detect some of these typical patterns of schizophrenics or
16 schizophrenia?

17 A. Yes. They included tests that would elicit those
18 deficits or evaluate for those deficits, and it was -- it
19 included other tests, as well; and you shouldn't see deficits
11:32:17AM 20 as severe. So, it was a full battery of cognizant tests.

21 Q. Were any of the tests you administered to Mr. Aldridge
22 specifically designed to test for malingering?

23 A. No. The entire battery can be used that way.

24 Q. What malingering test do you usually administer,
11:32:32AM 25 specifically, I'll say, in a forensic contest?

1 A. It depends on the individual; but in terms of personality
2 characteristics, the MMPI or the PAI have scales for
3 determining whether or not a person is presenting themselves
4 in a more positive or a negative light than usual or
11:32:54AM 5 inconsistent in their responding, those sort of factors in
6 regards to malingering in regards to symptom report.

7 In terms of cognitive functioning, if I believe
8 that a patient could be malingering in terms of cognitive
9 performance and memory testing, I would use some tests of
11:33:13AM 10 memory malingering. There are some computerized tests like
11 Victoria and Word Memory Test that I would use to assess
12 malingering in that domain.

13 Q. And why would you choose not to administer any of these
14 tests to Mr. Aldridge?

11:33:27AM 15 A. One, there was no indication that he was malingering on
16 cognitive testing. In the field of neuropsychology, although
17 there are a number of tests designed specifically to assess
18 malingering, there's a variety of literature available on
19 specific tests that are designed as a neuropsychological
11:33:43AM 20 instrument; and we can look at the pattern on those tests to
21 determine whether or not a patient is malingering. Because,
22 as you know, lawyers can get ahold of tests that assess
23 malingering; and patients can be trained on how to respond to
24 them.

11:33:57AM 25 So, there is literature available with findings

1 that show tests, like the California Verbal Learning Test, the
2 Rey Verbal Learning Test, that are actually neuropsychological
3 tests; and we can determine from the patterns' responses and
4 answers whether there is malingering performance.

11:34:14AM 5 In addition, the pattern performs across the
6 entire battery of tests. So, whether or not that is
7 consistent with a patient's schizophrenia or not. So, whether
8 the entire profile would be malingering can be assessed.

9 Q. Didn't you notice an elevation on the L-scale in the
11:34:30AM 10 MMPI-II that you administered to Mr. Aldridge?

11 A. I did not administer the MMPI-II to Mr. Aldridge.

12 Q. I'm sorry. I misspoke. That Dr. Quijano administered.

13 A. I did not evaluate -- the MMPI was not given any raw data
14 from his. I only got his report.

11:34:45AM 15 Q. Okay. All right.

16 A. I did not see the scales or anything for the MMPI-II.

17 Q. Okay. How do you structure the questions that you ask
18 during a clinical interview? How do you decide -- for
19 example, are there any sample types of questions out there for
11:35:04AM 20 psychological professionals that give you guidance on how to
21 conduct a competency evaluation?

22 A. Of course there are. I mean, in Texas -- when I was in
23 Texas, I am aware of the Texas Code of Criminal Procedure.
24 That's the state codes. So, they give a list of the areas
11:35:20AM 25 that need to be covered; and I cover those areas in general.

1 There are specific scales that are designed that I was trained
2 in at the conferences that I've attended.

3 THE REPORTER: I'm sorry. If you could maybe speak
4 up.

5 THE WITNESS: Okay. Do you want me to repeat
6 anything?

7 THE REPORTER: Yes.

8 THE WITNESS: Where would you like me to start?

9 THE REPORTER: "They give a list that need to be
10 covered."

11 THE WITNESS: So in the code?

12 THE REPORTER: Yes.

13 THE WITNESS: Okay.

14 THE REPORTER: And speak up.

11:35:41AM 15 A. So, the Texas State Code presents an outline of areas
16 that need to be reviewed. So, those are the areas that I
17 review. So, they include an area that client's ability to
18 understand the legal proceedings, the nature of the charges
19 against them, the consequences of those, the client's ability
11:35:57AM 20 to participate in determining, as I said, guilty, not guilty,
21 those types of things.

22 BY MS. ODEN:

23 Q. I think we've already gone into exactly what the
24 questions might cover, but what I'm looking for --

11:36:10AM 25 A. I'm getting to that. There are specific scales available

1 in MacArthur, which is one --

2 Q. Which one did you use in this case?

3 A. I did not use a specific scale. As you know, there's
4 different circumstances in this case than there are typically
11:36:22AM 5 when you are doing competency evaluation. So, I'm doing an
6 evaluation, one, to determine where he is at now. He is
7 not -- at the time of my evaluation in 2006, was not standing
8 trial.

9 Q. Correct.

11:36:35AM 10 A. So, I can't ask him questions about standing trial now.
11 So, in order to make that decision, I had to use the evidence
12 that was given to me, the data that was given to me at the
13 time of Dr. Quijano's evaluation. So, I had to incorporate
14 his responses to the answers -- the answers that he gave in
11:36:55AM 15 response to Dr. Quijano's questions.

16 Q. So, you did --

17 A. So, I questioned him about what was relevant currently,
18 which is his current understanding of his legal proceedings.
19 If I would have asked him about the court case in 1990, that
11:37:09AM 20 would have been assessing his memory for those events, which
21 is inaccurate. So, no, I did not use a structured interview
22 in this case.

23 Q. What questions did you ask Dr. -- Mr. Aldridge?

24 A. I asked him what is his understanding of his current
11:37:24AM 25 legal proceedings --

1 Q. And what did he tell you?

2 A. -- who his lawyer was.

3 Q. What did he tell you? Would it help you to look at your
4 notes?

11:37:32AM 5 A. No.

6 Q. Okay.

7 A. I mean, you can give them to me. That would be fine.

8 MS. ODEN: May I approach, Your Honor?

9 THE COURT: You may.

10 BY MS. ODEN:

11 Q. This is Respondent's Exhibit 4. Maybe we can start by
12 saying if you can point out what pages of your notes
13 correspond to that section of your clinical interview.

14 A. As you know, I spent five hours with Mr. Aldridge. There
11:37:58AM 15 was no way that I could write down every single thing that he
16 said.

17 Q. Sure.

18 A. It was all intertwined in his delusional network.

19 Q. Okay.

11:38:05AM 20 A. So, the sum of what he answered to me was in response to
21 who his attorney was. He gave me the name of his attorney.

22 Q. Did you write that down anywhere in your notes? I found
23 your handwriting a little hard to read. So, this will help
24 me.

11:38:20AM 25 A. I could not tell you what page that is on right now. I

1 would have to relook over all of my notes.

2 Q. Did you look over your notes from your interview with
3 Mr. Aldridge before you came to testify today?

4 A. I did.

11:38:30AM 5 Q. Okay. If you could help me -- if you wrote it down
6 during your interview, could you show me where?

7 A. I would have to look through this.

8 Q. Okay.

9 A. (Witness looks through the documents.)

11:39:10AM 10 On the first page -- the second page you can
11 see that he's writing -- I don't -- I haven't written my
12 questions. I only write down his responses.

13 Q. Okay.

14 A. He's talking about state court, habeas corpus. These are
11:39:21AM 15 proceedings that he's filed. So, this is -- I'm asking him
16 about what is his current understanding of his case. That's
17 how we start out. What's your current understanding?

18 And he's just telling me all these things that
19 he's filed, you know, state court, falsified, that they're
11:39:34AM 20 falsified documents, that's he's filed different things. And
21 he just goes through these cites sort of, you know, randomly.

22 Federal courts, there's constitutional rights, illegal
23 incarceration challenges, the federal rules, my statutes, pro
24 forma. They've only been appointed as a matter of form. They
11:39:53AM 25 ignore my writings. I mean, it's -- Bush is involved in my

1 case. He's been brought up to speed on my case. The judge is
2 involved.

3 I mean, the first three pages -- all of this is
4 completely delusional.

5 Q. Okay.

6 A. This is all in response to questions that I have asked
7 him about his involvement in the current legal proceedings.

8 Q. Okay. So, after you ask him generally what his legal
9 status is, did you ask him who his attorneys were?

11:40:21AM 10 A. Yes. That was the very first question I asked when I
11 came in and talked about what kind of evaluation I am going to
12 do and that I was actually appointed by his attorney.

13 Q. And who did he say his attorneys were?

14 A. He said that James Rytting was one of his attorneys.

11:40:38AM 15 Q. Did you write that down anywhere?

16 A. Excuse me. That's written on the back of my consent
17 form. That's what I remember. Is that in here?

18 Q. I didn't hear that.

19 A. I'm asking if that's in here.

11:40:57AM 20 Q. I don't know.

21 MS. HAYES: It's not in the materials that we had
22 received, and I don't believe --

23 A. It's on my consent form.

24 MS. ODEN: James, if you have a different copy of
11:41:48AM 25 her notes and her raw data that has it --

1 A. I don't see it here.

2 BY MS. ODEN:

3 Q. Okay. Doctor, were you aware that we requested to get
4 all of your notes and raw data from your testing back in
11:42:25AM 5 August?

6 A. I sent everything.

7 Q. Okay. Were you aware that we received it in October and
8 we had to continue making additional requests because there
9 were -- there were documents that were missing?

11:42:39AM 10 A. I am not aware of that, no.

11 Q. Okay.

12 A. When Mr. Rytting asked me for the documents, I
13 photocopied everything and sent it out the same day.

14 Q. Okay.

11:42:50AM 15 MS. ODEN: Is there a different version,
16 Mr. Rytting --

17 MR. RYTTING: No, not that I know of.

18 MS. ODEN: Okay.

19 BY MS. ODEN:

11:42:54AM 20 Q. So, you haven't found the consent form that Mr. Aldridge
21 signed where you noted what he said about his attorneys?

22 A. I have it in my file, but it is not in here.

23 Q. Okay. What are the other questions that you asked him
24 about his competency?

11:43:09AM 25 A. I asked him about -- say that again. About his

1 competency?

2 Q. About competency. You were evaluating him for
3 competency.

11:43:24AM

4 A. You said what other questions you asked him about his
5 competency.

6 Q. About his competency. What question --

7 A. You mean to determine whether he is competent or not?

8 Q. Yes.

11:43:32AM

9 A. Okay. Because I didn't ask him whether he felt he was
10 competent or not. I'm confused about what you are asking me.

11 Q. What was the next question you asked him?

12 A. Oh, at the time of my 2006 interview, I asked him the
13 first general question: What is your understanding of the
14 current legal proceedings against you? And then specifically
15 when --

11:43:57AM

16 Q. I'm sorry. Let me stop you. I thought your first
17 question was: Who are your attorneys?

18 A. Well, yes. This is in the clinical interview. That was
19 when I went over the consent.

11:44:08AM

20 Q. Okay. So --

21 A. So, yes, that was it. My immediate first question, when
22 I went over the consent with him and explained to him who
23 appointed me, we did discuss his attorney at that point.

24 Q. Okay.

11:44:16AM

25 A. But then in my clinical interview, since I had already

1 talked to him about that, I didn't bring up the attorney
2 again.

3 Q. Okay.

11:44:25AM

4 A. Because he had stated that -- you know, that that
5 attorney has been recused by me; and I don't recognize him.
6 He is part of the conspiracy, and I don't recognize him as my
7 attorney.

8 So, then in that clinical portion, I asked
9 questions related to the competency in regard to the legal
10 proceeding.

11 THE REPORTER: I'm sorry. You have to slow down.

12 THE WITNESS: I'm sorry.

11:44:54AM

13 A. During my clinical interview, the section where I was
14 asking him about legal proceedings, I asked him first a
15 general question about what is your current understanding of
16 the legal proceedings at this point in time? Okay. Are you
17 aware of the charges against you? That's when he said: I'm
18 on death row for capital murder. I did not do capital murder.
19 They are trying to murder me. And he went on about the Sufis
20 and then the Nazis and the mystics, the spirits, et cetera, in
21 relation to that.

11:45:16AM

22 And then I talked a little bit about how he
23 understood that there was a side that was against him and a
24 side that was for him in court, trying to get, as I had
25 mentioned, the adversarial nature of the legal proceedings.

11:45:35AM

1 And he was only able to say that everybody was against him,
2 every lawyer that's been appointed to him, every judge, and
3 all of the courts, the federal and the state. They don't read
4 my writings. They don't, you know, answer my appeals. So, he
11:45:54AM 5 was not able to state that he was aware that there was a
6 distinction between those that were there to support him and
7 those that were there to prosecute him.

8 Q. Is that reflected in your interview notes?

9 A. Again, that's part of all of this.

11:46:07AM 10 Q. Can you show me?

11 A. Writings. Again, I don't have my questions written down.
12 I only have his responses.

13 Q. Show me his responses to that.

14 A. I mean, that's all of this.

11:46:18AM 15 Q. Because I can't read your writing, it would really help
16 me and it would probably help the Court if you could read for
17 us from your writings what he said.

18 A. Okay.

19 Q. Or what you wrote down that he said.

11:46:30AM 20 A. Okay.

21 Q. And what page are you on?

22 A. I'm starting with page 1. I'm going to read my notes.

23 Q. Okay. This is actually page 2 from Respondent's
24 Exhibit 4.

11:46:43AM 25 A. It is page 1 of my notes.

1 Q. That's fine. This is for the record so the Court can
2 look back and read along with you.

3 A. Okay. So, it starts off talking about the state court.
4 And this is -- to make sure, again, I can't write verbatim.

11:46:58AM 5 He is a very verbose gentleman. The state court falsified --
6 he is talking about they falsified his documents, and he filed
7 a habeas corpus. It has never been followed up on.

8 Dr. Silverman offered me a new trial, a not guilty verdict, a
9 full capital murder trial. So, he's, you know,

11:47:19AM 10 misinterpreting what Dr. Silverman did. Dr. Silverman didn't
11 offer him a new trial.

12 Q. If you can just read --

13 MR. RYTTING: I object, Your Honor. I would like
14 this to be by question and answer since it's -- particularly

11:47:29AM 15 because it is cross-examination, and she is asking a very
16 open-ended question to -- that is going to result in, I don't
17 know, probably -- it was a five-hour interview. It is going
18 to be a five-hour recitation of notes.

19 THE WITNESS: I mean, the answers, Your Honor, are
11:47:47AM 20 in all of my notes. It is not a specific location for them.

21 THE COURT: I see that these handwritten notes in
22 the beginning of Exhibit -- of Respondent's Exhibit 4 go from
23 approximately page 2 to page 10. Is it your intention to ask
24 her to read all of those notes?

11:48:10AM 25 MS. ODEN: I just want to find out where in the

1 notes she has recorded his answers to some of these questions
2 about competency.

3 A. All of this. All of my writing are his answers to my
4 questions.

11:48:23AM 5 MS. ODEN: So, it is difficult for me to break it
6 up. I'm trying to break it up into question and answer form,
7 and I am hoping that we can just get to the parts of the notes
8 that answer those specific questions. I found it very
9 difficult to read her handwriting.

11:48:40AM 10 THE COURT: Well, I would agree. The handwriting is
11 difficult to read. But the Doctor is saying that all of her
12 questions deal with his competency. So --

13 THE WITNESS: The other data that I have is on the
14 cognitive test.

15 MS. ODEN: Correct.

16 THE WITNESS: And those are on the answers -- the
17 answers on the cognitive test.

18 MS. ODEN: Right.

19 THE WITNESS: So, this interview portion is all
11:48:58AM 20 about the competency stuff.

21 MS. ODEN: Correct. And we're just -- we're just
22 talking about the answers to the competency portion of the
23 exam, not all the cognitive testing.

24 THE WITNESS: That's -- all of these handwritten
11:49:10AM 25 notes are.

1 MS. ODEN: Correct.

2 THE COURT: All right. So, everything that she's
3 got handwritten here in the first, say, ten pages -- her
4 testimony is that this all relates to the questions regarding
11:49:20AM 5 his competency.

6 MS. ODEN: That is my understanding at this point,
7 Your Honor.

8 THE COURT: Okay. Do you have a specific question
9 about something -- like a specific question that she asked
11:49:32AM 10 about competency where the answer is in here? Is that what
11 you're trying to get at?

12 MS. ODEN: That's what I am trying to get at. And
13 my understanding from Dr. Mosnik is that there was not a
14 specific question with a specific answer that he just spoke
11:49:44AM 15 and she wrote down.

16 Is that correct? You wrote down --

17 THE WITNESS: I asked specific questions, yes,
18 open-ended questions about his understanding -- as I told you,
19 the three questions that I asked. And he is verbose. This is
11:49:58AM 20 his answer. He goes on and on and on. That is correct.

21 THE COURT: I think the problem is that it is not
22 broken down. Question No. 1, when I asked him X --

23 THE WITNESS: That's correct.

24 THE COURT: -- goes from page 2 to 3. It is not
11:50:11AM 25 broken down that way, as I appreciate it.

1 THE WITNESS: That's correct. I did not write down
2 my question.

3 MS. ODEN: Something Dr. Mosnik just said alerted me
4 to something.

5 BY MS. ODEN:

6 Q. You just said "the three questions that I asked." If I
7 understand correctly, you asked: Who are your attorneys?

8 A. I'm talking about the clinical interview. I asked that
9 initially.

11:50:25AM 10 Q. Okay. What are the three questions you asked during the
11 clinical interview about competency?

12 A. What is your understanding of the current legal
13 proceedings --

14 Q. Okay.

11:50:34AM 15 A. -- that you are undergoing or experiencing? Are you
16 aware that -- I actually didn't ask are you aware because I
17 asked open-ended questions, not where I lead them or give them
18 an answer to the question.

19 So, discussing the role of the prosecution and
11:50:53AM 20 the defense.

21 Q. Okay.

22 A. And then understanding of the charges against him.

23 Q. Okay. So, those -- were there other questions that you
24 asked that were outside of those three areas?

11:51:04AM 25 A. No.

1 Q. In his competency section?

2 A. No.

3 Q. Okay.

4 A. But I did utilize his answers to the questions that

11:51:15AM 5 Dr. Quijano asked him at the time of the trial. Again, he was
6 not faced with a trial at the time that I interviewed him.

7 Q. Correct. So, you did kind of a modified competency
8 examination by asking just these three questions that were
9 relevant to this circumstance.

11:51:31AM 10 A. Right. Because I was asked to determine whether he would
11 be competent now to have an understanding of the proceedings
12 against him and then whether or not I could determine a
13 retrospective evaluation of his answers with the data that I
14 had at the time of the 1990 trial, was he competent to stand
11:51:49AM 15 trial at that time.

16 Q. What was -- tell me, again, what the third question that
17 you asked during your evaluation was.

18 A. What the charge against him was.

19 Q. Okay. So, he understood that it was capital murder?

11:52:00AM 20 A. No, he did not, not outside of his delusional network.
21 As I said, he said: I am on death row for capital murder, but
22 I did not kill anybody. The Sufi killed this person; and they
23 are murdering me, blah, blah, blah. So, no, he never was able
24 to state that independent of his delusional network.

11:52:19AM 25 Q. Okay. So, if I am understanding you correctly, he

1 understood that he was on death row for capital murder; but he
2 didn't agree that he committed it. He felt he was being
3 framed, et cetera. Is that an adequate summary?

4 A. No. I don't believe that it is. I think you are trying
11:52:36AM 5 to tease something apart that can't be teased apart by the
6 client. The client is not able to differentiate the two. He
7 can't separate the two. That's my point.

8 Q. And how is that any different from some other person on
9 death row who says: Yeah, I'm on death row for capital
11:52:53AM 10 murder; but I didn't commit it. The other guy did it. I
11 didn't do the murder?

12 A. That is not what Mr. Aldridge is saying. He is saying
13 that somebody committed a murder through him, that used his
14 body, commanded him to do this. And they are Sufi mystic. It
11:53:09AM 15 goes on and on. I can go -- that the Nazis are torturing him
16 and the Sufi mystic, that he is designed to be the second
17 messiah in the Muslim world, and people are trying to murder
18 him. The courts are involved in this, and everybody has set
19 him up for a capital murder charge. Even though he didn't
11:53:25AM 20 kill anybody, they are murdering him through him.

21 Q. Okay. But that's --

22 A. So, he's not simply saying: I didn't do it.

23 Q. But that's nothing like what he said back in 1990, right?

24 A. It is like what he said in 1990. There was a voice on
11:53:39AM 25 the roof commanding him -- causing him to black out. People

1 were after him and being released from prison and were after
2 him to murder him and that he was blacking out and the voices
3 were telling him that he had to kill. He didn't want to kill.

4 Q. That's one of the versions that he told in 1990; but
11:53:57AM 5 there were a lot of other versions that he told in 1990,
6 weren't there?

7 A. I'm not aware any other versions. What other a lot of
8 versions did he tell?

9 Q. You are not aware of the other versions of the story?

11:54:09AM 10 A. From Dr. Quijano's report?

11 Q. Did you read the Houston Police Department records that
12 were provided in August, 2007? The records indicating he told
13 his nephew James that he had -- let me look at the specifics.

14 He told James that he got involved in a scuffle
11:54:30AM 15 with his manager and killed him in self-defense and then
16 emptied out the safe to make it look like a robbery. Are you
17 aware that?

18 A. No.

19 Q. That's Respondent's Exhibit 17 at page 68.

11:54:41AM 20 Are you aware that immediately after the crime,
21 he said: I'm in a jam, and I need some help, to his -- I
22 think it is his brother-in-law, Edward Ford?

23 A. No, I am not aware of that.

24 Q. That's Respondent's Exhibit 17 at page 44. Are you
11:54:56AM 25 aware --

1 MR. RYTTING: I'll object to the form of the
2 question was she aware that he said this or that. These are
3 reports from people who -- this is hearsay in the context of
4 this trial certainly about what Mr. Aldridge was telling the
11:55:11AM 5 witnesses that were used at trial. We don't have those
6 witnesses here to cross-examine about the reliability of their
7 reports, and reporting of what Mr. Aldridge said or the
8 circumstances under which these supposed statements were made
9 is completely unreliable information.

11:55:31AM 10 MS. ODEN: She's an expert. She can take it into
11 consideration. If she wasn't provided those documents, I'm
12 certainly entitled to impeach her opinion with them.

13 THE COURT: I agree. Overruled.

14 BY MS. ODEN:

11:55:41AM 15 Q. Okay.

16 A. I didn't review the Houston Police Department records.

17 Q. Okay. So, let me ask you how these different factors or
18 statements might affect your opinion.

19 MR. RYTTING: May I ask the respondent to show her
11:55:55AM 20 the documents to which she is referring to?

21 MS. ODEN: Sure.

22 THE COURT: You may. I think that would be useful.

23 Identify these again by exhibit number.

24 MS. ODEN: Not a problem, Your Honor. These are all
11:56:16AM 25 from Respondent's Exhibit 17.

1 May I approach?

2 THE COURT: You may.

3 BY MS. ODEN:

4 Q. Doctor, I'm showing you Respondent's Exhibit 17, page 44.

11:56:26AM 5 In the last paragraph of the page, there are some pink
6 highlight. Go ahead and you can review the whole page if you
7 want, but --

8 A. Well, if you could -- I'm not familiar with the setup of
9 this information --

11:56:40AM 10 Q. This is the Houston Police report.

11 A. But when it says "information from Sergeant Brian
12 Foster," does that mean this is him talking? Who is talking?
13 Who -- what is this --

14 Q. This is the entry in the police report that deals with
11:56:55AM 15 the investigation of the crime. So, one of the detectives
16 that is investigating the crime is making these entries as
17 they are proceeding with their investigation. So, they are
18 noting information that they are receiving from different
19 sources.

11:57:08AM 20 A. Okay.

21 (Pause in the proceedings)

22 A. What does "he"?

23 BY MS. ODEN:

24 Q. I think it is "he." "He." This is a Xerox copy. So,
11:57:35AM 25 the first letter along the side might be cut off.

1 A. Okay.

2 Q. Okay. I'm referring to Respondent Exhibit 17, pages 270
3 to 272. This is the sworn affidavit of Edward Ford. Have you
4 ever seen that document before?

11:58:23AM 5 A. I have not, no.

6 Q. Okay. Go ahead and review it. I'm sorry. Including
7 page 273. I was holding onto the last page by accident.
8 There you go.

9 MS. HAYES: If I may ask, Your Honor. 273 was the
11:58:55AM 10 one page that was missing from the original non-redacted
11 records that we sent you, but then that was included in an
12 overnight. So, if you don't have 273 --

13 THE COURT: I have it.

14 MS. HAYES: Okay.

11:59:05AM 15 THE COURT: Thank you.

16 (Pause in the proceedings)

17 A. Okay.

18 BY MS. ODEN:

19 Q. Now, I'm showing you Respondent's Exhibit 17, Page 274 to
12:02:44PM 20 277. This is the sworn statement of James Thomas. Have you
21 ever seen that before?

22 A. No, I haven't.

23 Q. Go ahead and review that.

24 A. That's a little difficult to read.

12:02:56PM 25 Q. I feel your pain.

1 (Pause in the proceedings)

2 MR. RYTTING: Your Honor?

3 THE COURT: Yes.

4 MR. RYTTING: Is it possible to get an idea from
12:12:53PM 5 respondent about how much material she wishes Dr. Mosnik to go
6 over?

7 MS. ODEN: I've got one more sworn statement that
8 was in the police file from Gladys Aldridge, but -- I would
9 have shown it to her way earlier if I had known she hadn't
10 seen this. I would have given it to her yesterday.
12:13:07PM

11 THE COURT: How many pages is that?

12 MS. ODEN: This is four pages. The fifth is just
13 the signature.

14 THE COURT: All right. How far along are you on
12:13:23PM 15 that?

16 THE WITNESS: I'm on the last page.

17 MR. RYTTING: Then, Your Honor, I propose that
18 they -- I'm not even sure if this is proper impeachment. She
19 hasn't read this material. If they wish, they can have their
12:13:36PM 20 expert comment on the significance of it and they can have a
21 more complete record. Is the complaint, the impeachment that
22 you didn't get all the records and you didn't read these
23 police reports and statements of witnesses at trial? That
24 impeachment has been done. I'm not sure what additionally is
12:13:55PM 25 going to be accomplished through our witness that they could

1 not do through Tom Allen giving his expert opinion about the
2 significance of these reports, as far as the competency issue.

3 THE COURT: Well, I'm interested in what this
4 witness thinks about the significance of these, assuming that
12:14:10PM 5 they're true. So, I'm going to let her read the other report;
6 and then let's go on.

7 THE WITNESS: Okay. I'm on the last paragraph.

8 MS. ODEN: No problem.

9 (Pause in the proceedings)

12:14:57PM 10 A. Okay.

11 MS. ODEN: May I approach?

12 THE COURT: You may.

13 BY MS. ODEN:

14 Q. Doctor, I'm showing you Respondent's Exhibit 17, page 278
12:15:04PM 15 to 283. This is the sworn statement -- two sworn statements
16 from Gladys Aldridge.

17 A. Okay.

18 Q. I assume you haven't seen those before?

19 A. I have not.

12:15:14PM 20 Q. Okay.

21 (Pause in the proceedings)

22 A. Okay. Oh, wait. This -- is this page 2? There was a
23 signature page and then another page --

24 BY MS. ODEN:

12:23:31PM 25 Q. That's her second statement.

1 A. Okay. All right. So, then I have one more page.

2 Q. Okay.

3 (Pause in the proceedings)

4 A. Do you know if these are on the same day? What the date
5 of these are?

6 BY MS. ODEN:

7 Q. The date should be on here.

8 A. This looks like 1/13/90, but I'm not sure about the date
9 on this one. Is that also?

12:24:00PM 10 Q. It is 1/13. The military time is a little hard to read,
11 but it will also say under the date what time the statement
12 was taken.

13 (Pause in the proceedings)

14 A. Okay.

12:25:31PM 15 BY MS. ODEN:

16 Q. So, Doctor, having read some statements by family members
17 about Mr. Aldridge's account of the crime before he was
18 arrested, you see that there are actually some different
19 versions out there of what happened during the crime; is that
12:25:46PM 20 right?

21 A. They are those individuals' perspectives, yes. I have to
22 say that the statements from Gladys and James -- I'm familiar
23 with a lot of that material from their testimony and other
24 statements they made. So, a lot of that was consistent with
12:26:01PM 25 things that I've read. The ones that I had never seen

1 anything about is these here from -- I never saw anything from
2 Eddie Ford, any of those. Those are new.

3 Q. So, we see that, according to these individuals,
4 Mr. Aldridge variously accounted for his crime as self-defense
12:26:17PM 5 or as a robbery where he needed to kill the witness or where
6 he killed the person during the scuffle and made it look like
7 a robbery by stealing the money.

8 A. No. I'm not coming to those conclusions from reading
9 this.

10 Q. Okay.

11 A. I don't see anywhere in here where he says it was
12 self-defense, and I don't see anywhere he's saying -- they're
13 saying that he said he had to make it look like a robbery.

14 Q. Okay.

12:26:42PM 15 A. They're explaining the details. And there's nowhere in
16 here that would rule out that he was also hallucinating and
17 delusional at the time.

18 Q. That's not my question.

19 A. I don't see anywhere where there's anything that says
12:26:51PM 20 anything about self-defense or making it look like a robbery.

21 Q. Okay. Are you -- so, you are probably not familiar,
22 then, with -- you were here during the testimony from Gladys
23 and you read her statements and you read Edward Ford's
24 statement, all three of which agree that Garfield had a gun
12:27:15PM 25 and was trying to decide what to do with the gun afterwards,

1 correct?

2 A. That's according to their statements, yes.

3 Q. Correct. And, of course, we don't have Garfield's
4 statement because he didn't make a statement.

12:27:25PM 5 A. Well, actually, that's not true. In these statements
6 there's no indication that Garfield is trying to figure out
7 what to do with the gun. The statements seem to be related to
8 the fact that he recognizes the gun is missing and that he
9 thinks Eddie took it and he wants to get it back. So, that's
10 my reading of these statements, is that he is trying to get
11 the gun back from Eddie.

12 Q. Okay.

13 A. So, there's no statement where they're saying he's trying
14 to do something to get rid of the gun. Nobody said he is
12:27:52PM 15 trying to get rid of the gun.

16 Q. Okay. We could spend the time necessary to have you read
17 the whole Houston Police Department file and the accounts of
18 all the interviews that they did, and maybe that's something
19 that you could do in preparation for the rest of your
12:28:06PM 20 testimony in this case.

21 But if you were to read accounts that indicated
22 after the crime, Garfield was asking people's advice: What do
23 I do with the gun? How do I get rid of the gun? Do I keep
24 the gun, does that indicate to you that perhaps there is some
12:28:23PM 25 part of his mind that is operating a little more rationally

1 and a little bit less delusionally after the crime?

2 A. What that says to me is that Mr. Aldridge is confused,
3 that he doesn't have a plan, that he doesn't know what to do
4 with it.

12:28:41PM 5 Q. Okay. So, if you were to read things that indicated, for
6 example, that he was trying to figure out how to escape and
7 escape the detection of the authorities, you would interpret
8 that as confusion and not as rational problem solving; is that
9 right?

12:28:58PM 10 A. Right. He doesn't seem to have a plan. He doesn't seem
11 to have any steps laid out. The only goal that he had that's
12 been present forth, that he has this goal to get out of this
13 country, to go to a Muslim country, to die on Muslim land.

14 Q. Okay.

12:29:18PM 15 A. So, that's -- there's nowhere that he goes to Gladys and
16 tells -- he doesn't tell her, you know, do this, do this, do
17 this and have a plan. There seems to be running back and
18 forth to -- from Gladys' apartment to Eddie's apartment to a
19 couple of different hotels doing things. So, it seems pretty
12:29:32PM 20 haphazard to me and it seems like there's four other people
21 contributing advice and telling him to do different things.
22 So, at this point I don't know what Mr. Aldridge is saying or
23 what they're saying or having him do.

24 Q. So, your interpretation is that they are the ones
12:29:47PM 25 directing his behavior, not him?

1 A. No. I'm saying that there are -- these three other
2 people are involved. So, I don't know -- it seems to me that
3 Mr. Aldridge is not organized, that he doesn't seem to have a
4 plan for escape, as you put it.

12:30:01PM 5 Q. And you would probably discount the fact that he went out
6 and bought the gun a couple days ahead of the robbery and lied
7 on the form so that he would be able to buy the gun because
8 that wasn't planned?

9 A. I've never said that I have discounted that. You are
12:30:18PM 10 putting words in my mouth.

11 Q. Would you discount that, or would you agree that that
12 indicates some degree of planning?

13 A. No. That's in the record, that he purchased a gun and
14 that he lied on there about his felony history prior to that
12:30:30PM 15 on the application.

16 Q. And you would interpret that as an evidence -- a piece of
17 evidence indicating he was planning and using forethought?

18 A. I don't think that in and of itself says that he's
19 planning. I think that says that he's capable of purchasing a
12:30:44PM 20 gun.

21 Q. Okay.

22 A. It doesn't say anything about his thought pattern and
23 whether he is thinking about using it for a specific thing, in
24 terms of planning or something in the future. It shows that
12:30:53PM 25 he was capable of purchasing the gun.

1 Q. And talking about the running around that he was doing
2 after the offense, wouldn't you agree that him saying: We
3 need to go to my apartment and y'all need to go in and get me
4 clothes and a passport and I am going to hide so that nobody
12:31:12PM 5 catches me in my apartment, you wouldn't agree that that's
6 some indication of rational problem solving?

7 A. No. You could also interpret that that's based on his
8 delusions. And, one, my understanding from their reports and
9 my read of these things you just had me read and my awareness
12:31:25PM 10 of also their testimony and these other -- the affidavits that
11 I read, is that he said to go get -- to my apartment to get my
12 passport. There was no mention that he said to get the
13 clothes. They went in there and got that together for him,
14 but they didn't say that he said to get those things. They
15 went into the apartment -- the only thing that there's record
16 that they said Mr. Aldridge told them to get was his passport.
17 And they didn't say that he said he had to hide. He just went
18 behind the bushes. In the statements that Gladys said is that
19 he kept saying people are out -- my enemies are out to get me.

12:32:02PM 20 So, he felt -- which is consistent with his delusions that
21 people were out to get him or his enemies were out to get him.
22 He hid. But they didn't say anything about him saying he had
23 to hide.

24 Q. Doesn't he also say that the police are out to get him?

12:32:13PM 25 A. I don't see that in here, no.

1 Q. Okay.

2 A. Can you show me where that is?

3 Q. Some of the other running around that he does is to go
4 pick up his nephew James, right?

12:32:25PM 5 A. James is one of the people that's involved in this.
6 That's correct. I don't know who picked up who.

7 Q. They go pick James up because Garfield wants to get a
8 hotel, but he knows he can't get a hotel room without I.D.
9 So, he wants to use James' I.D. to get the hotel room; isn't

12:32:42PM 10 that right?

11 A. My understanding is that James was already in the car,
12 that James went with Gladys and Aldridge in the beginning and
13 that they -- yes, that they used James' I.D.

14 Q. And you also read --

12:32:52PM 15 A. My understanding is that they did that when they got to
16 the hotel. They went to a hotel, and then they asked, you
17 know, Mr. Aldridge: Do you have an I.D.?

18 And he says: No.

19 And James said: I have I.D. And so, then

12:33:02PM 20 James went in with his I.D.

21 Q. And you also read in James' statement that Garfield said:
22 I killed my manager because we got in a fight, and I stole the
23 money afterwards to make it look like a robbery. That's page
24 68.

25 A. Okay.

1 Q. I'm sorry. That was the police report. I don't know
2 what page number --

3 MR. RYTTING: Page 68.

4 BY MS. ODEN:

12:33:24PM 5 Q. That was the police report version. I don't know what
6 page number it is in James's sworn affidavit.

7 A. Okay.

8 Q. Okay. So --

9 A. Okay. Say that -- tell me, again, what page that is on
12:33:46PM 10 here.

11 Q. Again, I don't have the page number since you have the
12 actual sworn statement in front of you.

13 A. Okay.

14 Q. If James' statement says that Garfield said: I stole the
12:33:55PM 15 money after I killed the manager to make it look like a
16 robbery --

17 A. I just read that, and I don't have a recollection of that
18 saying that. So, I am going to find that section.

19 Q. Doctor, let me --

12:34:41PM 20 A. Oh, here. Garfield said that him and his manager -- and
21 he had to shoot him. He did not say that they had been
22 fighting.

23 Q. Doctor, let me stop you. Since that is in the record,
24 let me make this a little bit easier because the police report
12:34:59PM 25 version is a little bit easier to read.

1 MS. ODEN: May I approach, Your Honor?

2 THE COURT: You may.

3 BY MS. ODEN:

4 Q. This is Respondent's Exhibit 17, page 68. What I am
12:35:08PM 5 reading from is at the very bottom of the page, and I'm going
6 to read this. Tell me if I read this right.

7 "The suspect told James that he had become
8 involved in a struggle with the manager of the McDonald's
9 where he worked and he had to kill him. Garfield also told
12:35:20PM 10 James since he had to kill the man, that he stole the money
11 out of the safe to make it look like a robbery."

12 A. Okay.

13 Q. So, if that is what Garfield told James, wouldn't that be
14 an indication to you of some rational understanding or
12:35:35PM 15 rational problem solving at the time of the offense?

16 A. No. Because we don't know if he was also delusional at
17 that time.

18 Q. And his delusion was, again, the version he told you with
19 the Sufis?

12:35:50PM 20 A. Believing that somebody else had worked through him to
21 commit this murder because of the voices commenting these
22 command hallucinations and his concern that people were
23 molesting him and after him and trying to murder him, yes. If
24 nobody asks about that, patients with schizophrenia do not
12:36:08PM 25 volunteer that volitionally. So, that has to be directly

1 queried. So, I cannot say that based on this alone that is a
2 rational statement. One, it is a statement of James about
3 what Aldridge said; and James did not question him about
4 whether or not -- you know, why he believed that there was any
12:36:26PM 5 voices telling him to do that.

6 Q. So, a schizophrenic who is actively hallucinating and
7 actively delusional will choose to only express verbally the
8 ordinary sounding explanation for a crime -- i.e., that he got
9 in a fight, had to kill him, stole the money to make it look
12:36:45PM 10 like a robbery -- and will not volitionally express this
11 florid hallucination that he killed him because he was being
12 sexually assaulted and the Sufi in his left ear told him he
13 had to do it and acted through him?

14 A. One, we are talking about whether or not he was
12:37:04PM 15 delusional and hallucinating at the time of the crime, not at
16 the time that he is talking to James. So, he may not have
17 been having an auditory hallucination at the moment that he
18 spoke to James.

19 Q. I thought you said it was pervasive, that it was all the
12:37:17PM 20 time --

21 A. It is. I said there's no --

22 Q. -- wax and wane.

23 A. That is what I said. I said there is no -- you don't
24 have auditory hallucinations -- once they are pervasive, you
12:37:31PM 25 have them. You don't experience them every second. They are

1 in your mind. You don't speak about them every second. Once
2 you are diagnosed and you have those symptoms, they are
3 pervasive. The delusions are fixed. That doesn't mean that
4 doesn't prohibit him from having speech -- subjects not
12:37:44PM 5 related to that.

6 So, what I am saying is there is no evidence --
7 well, there's two things. One, there is no evidence, based on
8 this statement from James, that he wasn't hallucinating or
9 delusional at the time of the crime or when he was talking to
12:37:59PM 10 James. Okay? One, I don't have the chance to talk to James
11 and query was there anything going on? Did he make any other
12 comments? I'm sure this is not a complete and absolutely
13 every single thing that happened, every single thing that was
14 said was in this account. This is very brief. Or if even
12:38:14PM 15 other questions were asked of James or Mr. Aldridge about
16 this. So, no. I'm saying based on this information, I cannot
17 determine about whether this is a rational act telling him
18 this or not.

19 Q. So, in order for your interpretation to be accurate, we
12:38:32PM 20 have to believe that at the time of the crime, Mr. Aldridge
21 was not acting according to his, basically, lifelong pattern
22 of committing robberies and attempted or completed murders but
23 he was acting according to a command hallucination in his mind
24 because of --

12:38:53PM 25 MR. RYTTING: I have to object to the form of the

1 question and the information that there was a lifelong
2 pattern. I believe there was one incident in -- I mean, two
3 incidents, I think, before 1972; and then he was incarcerated.

4 THE COURT: All right. I'm going to sustain that.

12:39:09PM 5 Rephrase your question.

6 BY MS. ODEN:

7 Q. Okay. Doctor, so, in order for us to believe your
8 interpretation, we are going to have to ignore the fact that
9 he was first adjudicated of robbery when he was 14 years old

12:39:20PM 10 and by the time he was 17, had committed several robberies and

11 was sent to prison for robbery and had also committed an
12 attempted murder. We have to ignore that pattern and we have
13 to believe that he committed this robbery and murder because
14 of a hallucination that was so profound and so strong in his

12:39:40PM 15 mind that he completely believed it wasn't him doing it but
16 that was, nevertheless, not strong enough that he would
17 immediately talk about it when he was fleeing the scene of the
18 crime; and his only explanation to his family members was that
19 he had done a hit, he had a committed a robbery, he --

12:40:02PM 20 MR. RYTTING: I will have to object to the form of
21 the question.

22 THE COURT: It's really --

23 MR. RYTTING: It's about ten of them.

24 THE COURT: It is a very extended question. Can you
12:40:14PM 25 simplify it?

1 MS. ODEN: I'm sorry.

2 BY MS. ODEN:

3 Q. All right. Let me break it down.

4 Doctor, are you aware -- you reviewed his

12:40:28PM 5 T.Y.C. youth records, his juvenile criminal history.

6 A. I did, yes.

7 Q. So, you are aware -- it's found on T.Y.C. records at page

8 9 -- that in 1968 he was convicted of burglary of a residence.

9 A. I am.

12:40:41PM 10 Q. And on the same page he was convicted four months later

11 of burglary of a drive-in grocery.

12 A. Yes.

13 Q. And the same page, about a month later he was convicted

14 of breaking and entering a residence.

12:40:53PM 15 A. Yes.

16 Q. I shouldn't say convicted. I should say adjudicated.

17 A. Right.

18 Q. Same thing.

19 In 1969 he was adjudicated of auto theft.

12:41:02PM 20 A. Yes.

21 Q. Okay. And he was committed to the Gatesville School for

22 Boys. You are familiar with all of that. In 1970 he has a

23 burglary. That's for priors, page 198. And you know in 1972

24 there were the four robberies by assault and the one assault

12:41:23PM 25 to murder.

1 You are familiar with those?

2 A. Yes.

3 Q. Okay. Again, later in 1972 the robbery at the meat
4 packing plant in Houston.

12:41:34PM 5 A. Uh-huh.

6 Q. So, you would agree that there is a pattern from 1968
7 onward of committing robberies, burglaries, assaults,
8 attempted murder?

9 A. Well, one, there's a number of circumstances involved in
12:41:45PM 10 all of those.

11 Q. Of course.

12 A. So, yes, I am absolutely aware of those.

13 Q. Okay.

14 A. And, again, those were prior to the onset of his
12:41:51PM 15 schizophrenia.

16 Q. Right. So, then we have this offense which, according to
17 various interpretations, was either because he was being
18 sexually assaulted by this manager or a Sufi told him to do it
19 or the man on the roof told him to do it or somebody else told

12:42:08PM 20 him to do it or he got in a scuffle with the manager and it
21 was self-defense and that he stole the money to make it look
22 like a robbery, correct? Those are some of the different
23 interpretations or accounts that we have in the records?

24 A. Well, the only -- I mean, there's no change in sort of
12:42:27PM 25 his delusional accounts of this voice, this person on top of

1 the roof telling him to do this and causing him to black out
2 while he is doing this. So, he doesn't at one time say it's a
3 Sufi and one time say it's not. So, there's that explanation
4 and --

12:42:39PM 5 Q. But there actually is a distinction, right? Because when
6 does he reportedly make these statements? Either post crime
7 or post arrest. All the statements that we know that he makes
8 post crime but before he is arrested are all the ordinary kind
9 of explanations for the crime, right? Self-defense, I got in

12:43:01PM 10 a scuffle, I stole the money to make it look like a robbery, I
11 committed a robbery, don't worry, I killed the witness. Those
12 are all --

13 A. That doesn't exclude the possibility of the delusional
14 account at the time.

12:43:12PM 15 Q. Agree.

16 A. He does say to Gladys that my enemies are after me.

17 Q. Right.

18 A. And we have already established that his delusions are
19 present prior to this; and this is following his break in

12:43:27PM 20 prison of becoming schizophrenic, becoming psychotic.

21 Q. After he is arrested is when we get his statements about
22 why he did it consistent with these delusions.

23 A. Right. That's the first time it is queried.

24 Q. Well, we don't know that, do we? Because you don't --

12:43:44PM 25 you just said you don't know what questions were asked --

1 A. Right.

2 Q. -- during the post-crime, pre-arrest stage.

3 A. That's correct.

4 Q. So, we don't know if that's the first time he was

12:43:54PM 5 queried.

6 A. Are you talking about by family members?

7 Q. By anybody.

8 A. This is the first time that we know it is being queried.

9 That is correct.

12:44:01PM 10 Q. Okay. Is it possible that the version that he gave you
11 is not the true version?

12 A. In the face of all the evidence and the symptoms that he
13 presented prior to and after, no.

14 Q. Is it possible that the version that he gave you is
12:44:19PM 15 colored by the fact that his schizophrenia has gone untreated
16 for all these years and so, it is likely to be worse now than
17 it was in 1990?

18 A. Could you repeat that?

19 Q. Is it possible that the version that he gave you in 2006
12:44:36PM 20 is colored by the fact that he's had untreated schizophrenia
21 all these years and so, presumably his schizophrenia is worse
22 than it was in 1990?

23 A. No. In fact, the pattern of schizophrenia is not that it
24 gets worse over time. So, the deficits that you see are
12:44:54PM 25 present at the beginning of the illness. And the reports in

1 Dr. Quijano's report indicate that a very similar
2 presentation, in terms of the types and severity of the
3 symptoms, as Dr. Quijano himself stated, he has a severe
4 mental disease with fixed delusional beliefs, religious,
12:45:11PM 5 grandiose delusions. So, no. It is a chronic disease. It is
6 a chronic longstanding disease.

7 Q. Actually, the diagnostic and statistical manual disagrees
8 with you, doesn't it?

9 A. No.

12:45:26PM 10 Q. The diagnostic and statistical manual, you'd agree, is a
11 reliable source of information about schizophrenia?

12 A. Absolutely.

13 Q. Sure.

14 MS. ODEN: May I approach, Your Honor?

12:45:32PM 15 THE COURT: You may.

16 MS. ODEN: I'm showing her page 302.

17 BY MS. ODEN:

18 Q. Tell me if I am reading this correctly.

19 "Prodromal symptoms are often present prior to
12:45:48PM 20 the active phase and residual symptoms may follow it. Some
21 prodromal and residual symptoms are relatively mild or
22 subthreshold forms of the positive symptoms specified in
23 criterion A." And then I'm skipping down here.

24 "Individuals who have been socially active may
12:46:05PM 25 become withdrawn. They lose interest in previously

1 pleasurable activities. They may become less talkative and
2 inquisitive, and they may spend the bulk of their time in bed.
3 Such negative symptoms are often the first sign to the family
4 that something is wrong. Family members may ultimately report
12:46:20PM 5 that they experience individual as gradually slipping away."

6 A. That is during the prodromal phase, before they have
7 their acute psychotic break. That is correct. That's not in
8 disagreement to what I said.

9 Q. So, is it possible, Doctor, that a patient who actually
12:46:35PM 10 has schizophrenia doesn't suddenly go from white to black; but
11 they have worsening of their symptoms such that people
12 perceive them as getting worse?

13 A. Certainly they can have exacerbations and worsening of
14 their symptoms and at periods of time when they get better.

12:46:53PM 15 Q. Okay. So, is it possible that Mr. Aldridge was not
16 floridly, actively, acutely schizophrenic at the time of his
17 crime?

18 A. State that again.

19 Q. Is it possible that Mr. Aldridge was not floridly,
12:47:10PM 20 acutely schizophrenic at the time of his crime?

21 A. Well, but all the evidence suggests that -- the
22 information that I have that's at the time -- available at the
23 time of the crime indicates that he was.

24 Q. The evidence that you've reviewed, except for those three
12:47:32PM 25 reports that you just saw --

1 A. And, again, I don't think those refute that there could
2 be presence of active psychosis.

3 Q. The evidence that you've been able to see, aside from
4 those three reports that you just saw, all of that evidence
12:47:45PM 5 came from post-arrest statements and interviews; isn't that
6 right?

7 A. No. There's information in his records from prison and
8 the letters to his family prior to -- you know, and the
9 evidence from 1986 to 1990 in terms of his behavior being
12:48:01PM 10 bizarre and these reports of spirits and delusions being
11 present prior to that time.

12 Q. Sure. But you just told us that a person doesn't
13 hallucinate 24/7, that sometimes they are hallucinating and
14 sometimes they are not, correct?

12:48:15PM 15 A. I said sometimes they are reporting their hallucinations,
16 and sometimes they're not.

17 Q. So, what you're telling us is that someone with
18 schizophrenia is actively hallucinating at all times?

19 A. No. Not every second of every day, no.

12:48:31PM 20 Q. Okay. So, it is possible that there are times when
21 they're not hallucinating.

22 A. Yes.

23 Q. So, isn't it possible, then, that when he committed the
24 crime, he was not hallucinating?

12:48:44PM 25 We can't know, right?

1 A. Right. I guess based on the records, it indicates that
2 he is.

3 Q. Right. And the reports that reflect that he was
4 hallucinating at the time of the crime are all based on his
12:48:56PM 5 statements post arrest.

6 A. That is correct.

7 Q. His statements pre-arrest, what we know of them, show
8 something different, don't they?

9 But we don't know if they are complete, right?

12:49:09PM 10 A. We don't know that they show something different.

11 Q. Okay. When you interviewed him and asked him questions
12 about his competency, questions designed to help you form an
13 opinion on his competency, you chose not to ask him questions
14 related to his competency at the time of trial. Can you tell
12:49:27PM 15 us again why you didn't do that?

16 A. Because that would be assessing memory.

17 Q. Okay.

18 A. I assessed him 17 years -- 16 years post.

19 Q. So, if he was able to tell you something about his
12:49:43PM 20 understanding of the legal process when he was facing trial,
21 would that not have indicated something about his competency
22 at the time of trial as well as something about his memory?

23 A. Sixteen years have passed. That's too much time. It is
24 not at the time of the crime. And Dr. Quijano and others have
12:50:03PM 25 already testified to the fact that when you do a competency

1 evaluation, it has to be related to the information that's
2 available at that time. It has to be in the time frame of
3 that trial.

12:50:18PM 4 Q. So, basically, the questions that you asked Mr. Aldridge
5 indicate to us now that he's not competent now; but the
6 answers to those questions don't tell us how he was at the
7 time of trial.

12:50:36PM 8 A. That the -- right. I did determine whether he was able
9 to understand his case currently. That is correct. And then
10 with the combination of my diagnosis and the presence of his
11 symptoms and cognitive impairment and the history of
12 schizophrenia and in combination with the records available
13 from the time of the original trial, an assessment was also
14 made about whether or not he was likely to -- competent to
12:50:51PM 15 stand trial at the time of the trial.

16 Q. Okay.

17 A. That is correct.

18 THE COURT: Counsel, I think this might be a good
19 stopping point. How much longer do you think we have on
12:51:00PM 20 cross?

21 MS. ODEN: More than 12 minutes.

22 THE COURT: That's what I thought. Why don't we
23 take a break and come back at 10:00 on Monday morning. We'll
24 resume at 10:00 o'clock Monday morning. All right. Thank
12:51:11PM 25 you.

1 MS. HAYES: I just have one quick issue.

2 THE COURT: Yes.

3 MS. HAYES: It will be real quick.

4 THE COURT: Yes.

12:51:17PM 5 MS. HAYES: Do you want everything done by the end
6 of Monday, or is there a possibility that it may --

7 THE COURT: I thought we were going to be finished
8 by 1:00 o'clock today. That's what I was told.

9 MS. HAYES: It never plays out that way.

12:51:32PM 10 THE COURT: Do you think it is going to go longer
11 than Monday? I've got a jury trial that we have set for
12 Monday which we pushed to Tuesday.

13 MS. HAYES: Would it be possible to start a half an
14 hour earlier, maybe by 9:30 Monday morning? I know Georgette
15 is flying back in from Austin, but it lands at 8:00. And I'm
16 thinking 9:30 would be a good --

17 THE COURT: We can start at 9:00 on Monday morning.
18 I just thought we weren't going to have to go the whole day,
19 but we can start at 9:00.

12:51:59PM 20 MS. HAYES: Okay. We can start at 9:00. And
21 knowing her flight lands at 7:50 at Hobby, she will just grab
22 a cab straight here.

23 THE COURT: Okay.

24 MS. HAYES: It might be just a few minutes after.

12:52:08PM 25 THE COURT: All right. 9:00 o'clock.

1 MS. HAYES: Another quick question.

2 THE COURT: Yes.

3 MS. HAYES: When you admitted all the exhibits at
4 the start of the hearing --

5 THE COURT: Yes.

6 MS. HAYES: -- I think you referred to my exhibit
7 list, but we had also filed an amended exhibit list that had
8 the complete chronology as our Exhibit 29. Is that also
9 admitted?

12:52:23PM 10 THE COURT: Yes. Yes, it is.

11 MS. HAYES: Okay.

12 THE COURT: There wasn't an objection to that, as I
13 noted, from the petitioners, was there?

14 MS. HAYES: No. They had filed --

12:52:31PM 15 MR. RYTTING: Well, we had an objection to it; but
16 all objections were overruled.

17 THE COURT: Yes. Okay.

18 MS. HAYES: Okay. The only last thing, if the Court
19 has to file exhibits or do anything in this break while we're
12:52:41PM 20 gone is that we ask that two of our exhibits be filed under
21 seal because I don't think I could redact out everything with
22 the personal information.

23 THE COURT: All right.

24 MS. HAYES: And that would be our Exhibit 17, which
12:52:52PM 25 is the HPD records.

1 THE COURT: Okay.

2 MS. HAYES: And then our exhibit with the Texas
3 Youth Commission records. That's our Exhibit 13.

4 THE COURT: All right.

12:52:58PM 5 MS. HAYES: Everything else is redacted completely.

6 THE COURT: Okay. All right.

7 Rhonda, make a note of that and make sure that
8 that gets under seal.

9 I was also told that there was a discovery of
12:53:09PM 10 some -- you can all sit down -- that there was a discovery of
11 some defense counsel records.

12 MR. RYTTING: Yes.

13 THE COURT: Is that right?

14 MR. RYTTING: Yes. We are going to produce those.

12:53:19PM 15 THE COURT: Those have been shared. Okay.

16 MS. HAYES: Well, I think what we've agreed -- this
17 afternoon I'm going to come over and I'm going to take all
18 seven boxes and I will be spending my weekend -- are there
19 six boxes or seven boxes?

12:53:32PM 20 MR. RYTTING: You have one box.

21 MS. HAYES: I have one box. So, they have six more.

22 MR. RYTTING: Just to be clear, you will get
23 whatever state habeas file was, how many boxes or how many
24 different boxes, you'll get state habeas counsel boxes.

12:53:45PM 25 MS. HAYES: And my intention is to spend the weekend

1 going through all of those, and if anything comes out that we
2 need to -- at least it will be here ready for the hearing by
3 Monday.

4 THE COURT: All right.

12:53:57PM

5 MS. HAYES: And then Monday after the hearing, we
6 will return the boxes to y'all.

7 THE COURT: Okay. All right. Very good. We will
8 see you Monday, 9:00 o'clock.

9 (Recessed until Monday)

10 * * *

11 I certify that the foregoing is a correct transcript from the
12 record of proceedings in the above-entitled cause, to the best
of my ability.

13

14 //s _____
Stephanie Kay Carlisle-Neisser CSR, RPR
15 Official Court Reporter

12/11/2009
Date

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